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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Montserrat

Working paper prepared by the Secretariat

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I. General

1. Montserrat[1] is situated in the Leeward Islands in the eastern Caribbean, 43 kilometres south-west of Antigua and 64 kilometres north-west of the French Overseas Department of Guadeloupe. The island is 18 kilometres long and 11 kilometres wide and covers an area of 103 square kilometres, all of which is volcanic and mountainous. Its coastline is rugged and has no all-weather harbour.[2]

2. In July 1995, the Montsoufriere volcano, dormant for more than 400 years, erupted and caused the evacuation of more than one third of Montserrat's population from the southern part of the island to its northern "safe" areas in August 1995. Montserrat's capital, Plymouth, was abandoned after the increase in volcanic activity in 1996.[2] The temporary capital is now located in Brades and a new capital is being planned in Little Bay, which is situated on the north-east coast of the island.[3]

3. The population of Montserrat, which in 1995 was 10,581, was estimated to be 3,500 in February 1998 by the Chief Minister of Montserrat; the administering Power estimated the Territory's population at that time at 2,800.[4] As of August 1999, the population was estimated to be just over 4,600. English is the only language in use by the entire population. The principal religion is Christianity, and the main denominations are Anglican, Roman Catholic and Methodist.

4. As of May 1999, the Territory, in conjunction with the administering Power, has a comprehensive programme in place for the reconstruction of the Montserrat economy.[5] The Sustainable Development Plan, which includes policies aimed at helping Montserrat go from a state of crisis to development, is to be put in place by 2002.[6]

II. Historical background

5. Montserrat, sometimes called the Emerald Island, was named after a Spanish monastery by Christopher Columbus on his second trip to the island in 1493. In 1632, the island became a British Colony, and its first settlers came mainly from Ireland. Slaves, who worked the cotton, sugar and tobacco plantations, were unsuccessful in an uprising in 1768.[7] Although Montserrat was occupied by France for brief periods of time, it returned definitively to British rule in 1783. Montserrat became a British Crown Colony in 1871.

III. Constitutional background

6. According to information received from the administering Power, Montserrat is an internally self-governing Overseas Territory (formerly a Dependent Territory) of the United Kingdom of Great Britain and Northern Ireland. The Territory is administered by the United Kingdom under the Montserrat Constitution Order of 1989, which came into force in 1990. The Constitution provides for a Governor appointed by the Queen; an Executive Council comprising the Governor as President, the Chief Minister, three ministers and two ex officio members (the Attorney General and the Financial Secretary); and a Legislative Council, comprising a Speaker, two ex officio members (the Attorney General and the Financial Secretary), seven elected members returned from single-member constituencies on the basis of universal adult suffrage, and two nominated members. Elections are held every five years on the basis of universal adult suffrage. The next elections are due to be held in 2001.

7. Ministerial responsibilities cover all areas of government business, with the exception of external affairs, internal security, defence, the public service and offshore financial services — areas for which the Governor is responsible. During the Governor's absence, the Speaker of the Legislative Council acts as Governor.

8. The law of the Territory is English common law together with locally enacted legislation. It is administered by the Eastern Caribbean Supreme Court. The Royal Montserrat Police Force, headed by a British Commissioner together with his staff officer (a senior Superintendent), is funded by the Technical Cooperation Programme. The force is made up of 51 people, of whom only 60 per cent are Montserratian.[2]

IV. Political developments

9. The current Governor of Montserrat, Anthony Abbot, was sworn in on 17 September 1997; David Brandt has been Chief Minister of Montserrat since August 1997.

10. Montserrat's political party system is not very stable. The main political parties are the Movement for National Reconstruction, the People's Progressive Alliance and the National Progressive Party. During the most recent election, in 1996, in the midst of the chaos resulting from the volcanic activity, voter participation was very low and none of the parties won a majority.

11. A new electoral system has been proposed. A commission will be created to determine the voting procedures for the elections to be held in October 2001. Because the majority of the constituencies on the island are currently uninhabitable following the eruption of the Montsoufriere volcano, nine at-large members are to be elected in two rounds of voting. The new Assembly, however, will not include any nominated members. One of the most important issues for the new election will be the question of a qualifying pre-poll residence period. The amount of residence time which has been suggested is three weeks, which would make it possible for Montserratians who live abroad to return home and vote. [8]

12. In March 1999, the Government of the United Kingdom had issued a White Paper on the relationship between the United Kingdom and its Overseas Territories, entitled "Partnership for Progress and Prosperity: Britain and the Overseas Territories". The paper is contained in the annex to document A/AC.109/1999/1 and its key recommendations are outlined in A/AC.109/1999/15 (para. 38), the most recent Secretariat working paper on Montserrat.

13. In April 2000, in a speech given by the Under-Secretary of State for Foreign and Commonwealth Affairs, the administering Power stressed the theme of partnership based on four fundamental principles, reiterated its commitment to maintaining the right of self-determination and stated: "Where independence is an option and if it were to be asked for, we would not stand in any Territory's way. Neither do we have any hidden agenda to force any Territory to go down the independence route."[9]

V. Status of the Montsoufriere volcano

14. In July 1998, the administering Power commissioned the Montserrat Volcano Observatory to evaluate the status of the Montsoufriere volcano. The evaluation was presented and discussed at a meeting held from 24 to 26 February 1999 and a report entitled "Scientific and Hazards Assessment of the Montsoufriere Volcano" was released on 12 March 1999. In the report it was noted that when the magmatic eruption ended in March 1998, there were no signs that there would be any further eruptions in the near future. The report also described the residual activity during 1998 as being linked to the continued release and ascent of volcanic gases from the source of magma located deeper in the earth. This type of activity was cited as being common in volcanoes where eruption was coming to an end. Although the activity was expected to diminish over time, it was still expected to pose hazards in the southern part of the island. The meeting also reconsidered the probability of no eruptions occurring in the upcoming months, and in July 1998, assessed this probability at 95 per cent.

15. Although in 1998 scientists had believed that the probability of the Montsoufriere volcano erupting again within the next five years was only 15 per cent, and 25 per cent within 10 to 30 years, the volcano erupted again in November 1999 and yet again in March 2000. Reportedly no one was injured in the latest eruptions. The March eruption collapsed the dome that had been growing since the last eruption in November and caused pyroclastic flows, volcanic explosions and mudflows. The ash-fall covered the entire island and extended to Guadeloupe and Antigua.

16. This new threat came just as the islanders were rebuilding. The Governor of the Territory termed the eruption very demoralizing and expressed concern that the new growth in the volcano would drive away the "resilient" people who had put up with the volcano for years.[10]

VI. Economic conditions

17. Hurricane damage and volcanic activity have combined to seriously undermine Montserrat's economic development and have implications for its future planning.

A. Public finance

18. During the 1999 budget presentation, the Chief Minister had summarized the continuing impact of the 1995 and 1997 eruptions of the Montsoufriere volcano.[5] Since then, the Montserrat economy has

continued to be characterized by reduced economic activity of the private sector, which has resulted in further reductions in government revenues. Revenue in 1998 continued to decline.

19. According to a government press release, the Caribbean Development Bank (CDB) agreed to restructure Montserrat's debt. CDB is the principal creditor of the Government of Montserrat, representing approximately 70 per cent of the Government's annual debt service. The agreement between CDB and the territorial Government provides for moratoriums of varying length on the principal and/or interest of 7 of the 12 loans held by the Bank.[11]

20. In 1999, recurrent expenditure was projected at EC$ 56.9 million and locally raised recurrent revenue to be EC$ 22.8 million. The administering Power had offered budgetary aid in the amount of approximately EC$ 34 million to finance this gap.[5]

21. In the second quarter of 1999, the central Government's fiscal operations improved, in comparison to the same quarter in 1998. The current account deficit decreased from EC$ 8.8 million to EC$ 7.3 million, which can be attributed to the 11.3 per cent increase in the current revenue and to a 6.3 per cent reduction in current expenditures. The money supply increased, largely as a result of growth in net foreign assets; liquidity in the commercial banking system improved; and interest rates remained unchanged. The inflation rate increased from 0.5 per cent in the previous quarter to 0.6 per cent. Price increases were recorded in alcohol and tobacco; gas, electricity, and water; and household goods. However, there was a decrease in the prices for services and clothing.

22. The increase in current revenue can be attributed to the 12.8 per cent increase in tax revenue, which is largely attributable to the 24 per cent increase in the yield from taxes on international trade and transactions, mainly from import duties, consumption taxes and customs service charges. Also, income from taxes on income and profits increased by 8.1 per cent although the revenue from personal taxes decreased. Income from taxes on domestic goods and services decreased by 10.6 per cent, most likely owing to the reduced revenue from licences and hotel occupancy taxes. Non-tax revenue also decreased from 0.4 per cent to 0.3 per cent.[12]

B. Banking and finance

23. Liquidity in the commercial banks of Montserrat was relatively high as of the second quarter of 1999.

24. Net foreign assets of the banking system increased only by 10.0 per cent, in comparison to 18.9 per cent in 1998. Net foreign assets of the commercial banks, however, increased by 85.6 per cent, which demonstrates the large amounts of money held in institutions outside Montserrat.[12]

C. Tourism

25. The negative impact of reduced visitor arrivals and spending on the economy has been significant. As of June 1999, prospects for the tourism industry were not very bright, despite Montserrat's attempts to stay involved in international and regional tourism promotions. Specific efforts in this regard include the opening of the Vue Pointe Hotel in the first half of 2000 and the completion of a new 18-room hotel in the northern part of the island designed mainly for business visitors. Ferry and helicopter services to Antigua are also currently being provided.

D. Economic activity, population and employment

26. The increase in economic activity in 1998 was mainly attributable to public investment in infrastructure, although private home-building and commercial building activity also played a role, once insurance coverage was re-established on Montserrat in these areas. In 1998, there were approximately 290 building starts, with an estimated completion value of EC$ 33.7 million. Of these, more than 140 were government-funded housing units (EC$ 17 million).

27. At the end of the second quarter of 1999, economic activity was at a low level, owing to the damaging effects of volcanic activity. Domestic credit was -9.9 per cent in comparison to -6.4 per cent in the previous quarter, primarily as a result of the decrease in lending to the private sector. The amount of credit given to economic sectors such as construction and agriculture also declined substantially. Credit to construction fell by 33.1 per cent and credit to agriculture sector fell by 28.0 per cent. However, loans

granted for personal purposes remained at almost the same at level EC$ 17.3 million.

28. In June 1997, the Territory's population had been estimated at 7,500. By August 1997, the population had further declined to 5,800, as additional residents relocated after volcanic eruptions in June and July.[13] The population of the island declined still further, owing to growing danger of volcanic activity. In August 1999, it was estimated at slightly more than 4,600. According to press reports, the administering Power has announced that it will underwrite the airfare of Montserratians who wish to return from abroad.[14]

29. Unemployment stood at 7.7 per cent at the end of 1997 and 5 per cent in March 1998. According to the Montserrat Social Survey the labour force had shrunk to 1,517 workers, with the Government as the largest employer on the island, with 33.1 per cent of the workforce. Construction accounted for almost 14 per cent, health and social work 10.7 per cent, and wholesale and retail 8.7 per cent.[15] Inflation remained relatively high at approximately 5 per cent, and was attributed largely to increases in building rents.[16]

30. As a direct result of the volcano emergency, exports in 1998 declined to EC$ 3.4 million, compared with EC$ 22 million in 1997, before the closing of the rice mill and the electronic components factory, which had been major producers of export earnings in the previous years. Imports dropped from EC$ 80 million in 1997 to EC$ 72 million in 1998; this decrease in part reflects the decrease in population from early 1997.

E. Agriculture

31. In 1997, heavy emphasis was placed on acquiring, preparing and bringing into production as much suitable land as possible. The area of land under agricultural production by the end of 1997 was in excess of 16 hectares (40 acres). About half of this was located in a government project at Brades devoted almost exclusively to vegetable production, with the aim of reducing the level of food imports. By October 1998, the area under cultivation had increased to 24 hectares (60 acres).[17] The Ministry of Agriculture has prepared a number of plans to assist farms in those areas, and there has been some assistance provided by the Caribbean Agricultural Research and Development Institute.

32. Although data on agricultural output since June 1999 were not available, preliminary reports have indicated that the production of vegetables for the domestic market has increased, as evidenced by the decline in issuance of import licences for crops produced locally.[18]

F. Sustainable Development Plan and Country Policy Plan

33. In the face of the economic disruptions caused by the ongoing volcano crisis, the Government of Montserrat and the administering Power have signed a comprehensive Sustainable Development Plan and a Country Policy Plan, establishing the framework and direction of development in Montserrat until 2002. In 1999, these plans called for:

(a) Provision of further serviced plots for housing development;

(b) Reorientation of water storage and reticulation systems to supply new customers in the north of the island;

(c) Commencement of withdrawal from services previously provided by the private sector;

(d) Overhaul of fiscal and pricing policies and introduction of strategies to simplify and strengthen collection techniques;

(e) Programmes for potential privatization, contracting out and private finance initiatives in operation;

(f) Establishment of internationally competitive clear and non-discretionary inward investment legislation;

(g) Access to health services improved through a strengthened district level delivery system with an emphasis on primary and preventative care;

(h) Improvements in the provision of nursery, primary and secondary facilities.[19]

VII. Social conditions

A. Education

34. In 1998, there were four government primary schools in operation in the designated safe zone,

accommodating children from the non-evacuated as well as the evacuated areas. There are two private primary schools, one private secondary school and one amalgamated government secondary school with three campuses.[20]

B. Housing and infrastructure development

35. In 1999, the territorial Government intended to assist 340 families to build homes through both "direct-build" and "self-build" schemes, including material grant assistance and a concessionary mortgage scheme. In support of this project, the Government planned to draw down its reserves by EC$ 1.5 million in order to help finance additional self-build housing. The Ministry of Housing and the Land Development Authority of Montserrat identified 808 families still requiring housing.

36. As of January 2000, only 150 people were housed in emergency accommodations, which had been built as a direct result of the volcano eruption. In addition, recently enacted social welfare legislation comprising a means-related benefit system has replaced the previous system of monthly payments to those people who had been forced to evacuate the southern part of the island.

37. The rehabilitation of the electricity, water supply and road network systems is expected to be complete in the Isles Bay area of central Montserrat by mid-2000. These projects have been undertaken with financial assistance from the United Kingdom.[21]

38. Feasibility studies are being conducted for the construction of a new port and airport[3] as well as a cricket stadium for the World Cup in 2007.[22]

C. Health

39. According to press reports, community health clinics, providing free services for Montserratians are in operation in the safe zone at three locations: St. Peter's, Cudjoe Head and St. John's. In addition, there are two private medical practitioners and one private dental practitioner on the island. [23]

40. In 1998, a new block was added to the hospital facilities in the designated safe zone, including two patient wards, isolation rooms and a maternity ward. A wing containing a pharmacy, laboratory and administrative offices will be completed in mid-1999.[5]

41. According to the evaluation presented and discussed at a meeting at Montserrat Volcano Observatory from 24 to 26 February 1999, air quality continues to be adversely affected by volcanic ash. Recent evaluations of ash in Salem and Old Towne show that the composition of the ash is dominated by a fine, respirable fraction containing 15 to 25 per cent cristobalite, which can cause the respiratory illness silicosis.[24]

D. Community

42. Of ongoing concern is the disruption of social ties and communities as a result of the volcanic crisis. According to the Montserrat Sustainable Development Plan, completed in November 1998:

> "Prior to the volcanic activity, social welfare in Montserrat was achieved through a combination of publicly financed initiatives and non-State activities. Strong community and family relationships were the basis of a support and assistance network, which combined effectively with limited targeted public assistance for the most vulnerable. Education and certain health services were provided free at the point of delivery for all Montserratians ...
>
> "The policy approach, objectives and targeting of the pre-volcano system have been distorted by measures introduced to cope with emergency conditions, in particular with respect to housing and income, as individuals and families have lost their homes and livelihoods. The associated break-up of families and communities has also meant that individuals are now much more dependent upon the State than in previous times.
>
> "A key theme to emerge during the preparation of the Sustainable Development Plan was the desire by individuals to continue to have access to support mechanisms from the State during the period of crisis and redevelopment. ... The Social Welfare Review (commenced in September 1998) stresses the fact that a more targeted system can be developed quickly and that a combination of government provision for the most needy, the re-establishment of

independence and encouragement of community responses to welfare needs is the best way forward."[17]

E. Human rights

43. In a report submitted to the United Nations Committee against Torture under article 19 of the Convention against Torture on 1 April 1998, the administering Power made the following statements with respect to Montserrat:

> "Since the submission and examination of the second periodic report under the Convention in respect of Montserrat, the life of the population of the Territory has been dramatically affected — indeed catastrophically disrupted — by the eruption of the Montsoufriere volcano ...
>
> "Despite this situation, the Government and people of Montserrat remain firmly committed to the principles of the Convention and the Government of the Territory will continue at all times to seek to ensure that the requirements of the Convention are as scrupulously observed as circumstances permit ... There have been no relevant changes in the law since the previous reports and, certainly, there have been no alleged incidents of torture or of cruel, inhuman or degrading treatment or punishment. As previously reported, judicial corporal punishment was abolished in Montserrat as far back as 1991.
>
> "Nevertheless, the physical and economic difficulties under which Montserrat is now labouring have, in one field that is relevant to the Convention, necessitated the adoption of arrangements that it is acknowledged are unsatisfactory but that cannot immediately be ameliorated. As explained above, with the destruction of Plymouth Montserrat also suffered the destruction of its prison. Since then, largely ad hoc arrangements have had to be made for the accommodation of prisoners."[25]

44. According to press reports, there are currently facilities to house prisoners for short periods of time. The majority of prisoners with longer sentences are sent to other Overseas Territories administered by the United Kingdom; prisoners rarely serve their time in the United Kingdom.[26]

VIII. United Kingdom development assistance

45. In paragraph 7.10 of its White Paper (see para. 12), the administering Power summarized its aid to Montserrat as follows:

> "We have committed 75 million pounds sterling to Montserrat for the three-year period 1998/99-2000/01. This is additional to the £59 million spent in the three years since the volcanic crisis started in 1995. Our support finances budgetary aid and the rebuilding of the north of the island where the remaining population live (4,500). We are also providing support for evacuees in the Caribbean region and have financed passages for evacuees to the Caribbean, the United Kingdom and North America. The costs of supporting evacuees once they arrive in Britain are met by the relevant Home Departments. We agreed with the Government of Montserrat in November 1998 on a Sustainable Development Plan setting out broad policies needed for economic and social recovery of the island. This formed the basis of the joint Country Policy Plan agreed in January 1999, which includes an indicative investment programme for the period to March 2001."[2]

46. Assistance included provision of infrastructure and housing, a hospital, schools, a ferry and helicopter service, assistance to small-scale private sector companies and expertise to assist the Government over a wide range of public service activities.[2]

47. In March 2000, the United Kingdom announced that it would donate a naval patrol boat to the Montserrat police to help fight drug trafficking in the Caribbean.[27] The United Kingdom Government will also contribute EC$ 160,000 towards the construction of a cultural centre in the northern part of the island.[27]

IX. Assistance provided by the United Nations and other international organizations

48. United Nations assistance to Montserrat is provided mainly through the United Nations Development Programme (UNDP), which maintains programmes of technical cooperation with five Non-

Self-Governing Territories of the Caribbean, including Montserrat.

49. After the first volcanic eruptions in 1995, UNDP provided emergency resources of US$ 165,000 for emergency shelter and housing efforts. Funding for these efforts came from the UNDP Special Programme Resources and TRAC 1.1.3 emergency programme. That money has been used as part of the funding for the CARICOM Village, a housing project administered by the Caribbean Community (CARICOM). UNDP has also provided technical support to the territorial Government in civil engineering, environmental planning, disaster management and preparedness, building management, and architectural services. (For more detailed information about the country cooperation framework, see UNDP document DP/CCF/MOT/1.) Support for the Government's sustainable development strategy will be the ongoing focus of UNDP efforts in the Territory.[28]

50. On 26 January 1999, the Executive Board of UNDP and of the United Nations Population Fund authorized the Administrator to shift support of programmes in Montserrat to a case-by-case basis, as requested by the territorial Government. The decision had been reached after a review of the current situation in the Territory.[29]

51. The two main focuses of a newly approved UNDP project in 1999 were: (a) support for vulnerability mapping and strengthening of national disaster management; and (b) preparedness plans. The project is being funded both by the Governments of Montserrat and the United Kingdom.

52. UNDP has been unable to reverse the Executive Board's conferral of net contributor country (NCC) status on Montserrat, owing to the island's high level of per capita gross national product (GNP). It has, however, participated in the review of and provided advice on Montserrat's Sustainable Development Plan and assisted in finalizing the Country Policy Paper together with authorities of the United Kingdom Government.

53. According to press reports, the European Union has allocated at least ecu 16 million to Montserrat, of which ecu 8 million is to be used for airport reconstruction and the rest for poverty-alleviation programmes, such as home-building projects.[30]

X. Participation in regional organizations and arrangements

54. The Territory continues to be a member of CARICOM and the Organization of Eastern Caribbean States (OECS), as well as the institutions associated with both groups, including the University of the West Indies, the Caribbean Development Bank and the Eastern Caribbean Central Bank. Montserrat is an associate member of the Economic Commission for Latin America and the Caribbean (ECLAC) and its subsidiary bodies. The Territory is represented at the meetings of the Caribbean Group for Cooperation in Economic Development, sponsored by the World Bank.

XI. Future status of the Territory

A. Position of the territorial Government

55. On 30 March 1999, in presenting the 1999 budget, the Chief Minister of Montserrat acknowledged the publication of the White Paper on relations between the United Kingdom and its Overseas Territories, as follows:

> "We feel that this is a welcome opportunity for a full review of the constitutional relationship between the United Kingdom and the colony of Montserrat. Perhaps the time has come for all Montserratians to be given the chance to discuss and determine the nature and the terms of our future constitutional status, and for such an exercise to produce a constitution over which we can claim true ownership and acceptance. Government is therefore considering the appointment of a constitutional commission to undertake the review and to make proposals for constitutional change. These proposals would draw on the work of the Electoral Commission which is presently ongoing, but would naturally adopt a much wider scope and purpose." [31]

56. The Chief Minister of Montserrat expressed his preference for independence within a political union such as the Organization of Eastern Caribbean States. He also stated that self-reliance was more important than independence from the United Kingdom.[32]

B. Position of the administering Power

57. The representative of the United Kingdom in addressing the Fourth Committee of the General Assembly on 6 October 1999, stated that her Government had made further progress in its efforts to transform its relationship with its overseas Territories into a fully modern partnership. This was based on four fundamental principles: self-determination; mutual obligations; freedom for the Territories to run their affairs to the greatest degree possible; and a firm commitment from the United Kingdom to help the Territories economically and to assist them in emergencies. Among the measures being taken was the decision to offer British citizenship and the right of abode to those people of the overseas Territories who did not already enjoy it, thus meeting a long-standing request of the peoples of the Territories.[33]

58. She went on to say that the United Kingdom would also continue to support strengthened measures and devote greater resources for sustainable economic development and environmental management and protection in the overseas Territories. The United Kingdom was also prepared to consider any proposals about the future put forward by the peoples of the Territories themselves and reaffirmed that self-determination remained one of the fundamental principles which guided her Government's relationship with the Territories.[34]

C. Consideration by the General Assembly

59. At its 71st plenary meeting, on 6 December 1999, the General Assembly adopted without a vote resolution 54/90 B, section VII, of which concerns Montserrat. In the resolution, the Assembly called upon the administering Power, the specialized agencies and other organizations of the United Nations system as well as regional and other organizations to continue to provide urgent emergency assistance to the Territory in alleviating consequences of the volcanic eruptions and welcomed the support of the Caribbean Community in the construction of housing in the safe zone to alleviate the shortage caused by the environmental and human crisis of the eruptions of the Montsoufriere volcano, as well as the material and financial support of the international community to help alleviate the suffering caused by the crisis.

Notes

[1] The information contained in the present paper has been derived from published reports and information available on the Internet. The facts and figures presented in the working paper are the latest information available.

[2] "Partnership for Progress and Prosperity: Britain and the Overseas Territories", United Kingdom White Paper, March 1999 (A/AC.109/1999/1, annex).

[3] *The Economist* Intelligence Unit, Country Profile, 1999-2000.

[4] *Trinidad and Tobago; Guyana; Suriname; Netherlands Antilles; Aruba; Windward and Leeward Islands, 1st quarter 1998. The Economist* Intelligence Unit, p.74.

[5] 1999 Montserrat Budget (www.mratgov.com/budget_speech_1999.htm), 30 March 1999; "New Plans for the Development of Montserrat", United Kingdom Foreign and Commonwealth Office, www.fco.gov.uk, 11 June 1999.

[6] Monserrat Reporter web site, Montserrat Development Unit.

[7] *Tribune Business News*, 29 March 2000.

[8] *The Economist* Intelligence Unit, 28 January 2000.

[9] Baroness Scotland at Wilton Park, 3 April 2000, Overseas Territories: Into the New Millennium Conference. See also paras. 57-58 of the present report.

[10] *Caribbean News Agency NewsEdge Service*, 24 March 2000.

[11] *The Montserrat Reporter*, 30 April 1999.

[12] Eastern and Caribbean Central Bank, *Economic and Financial Review*, vol. 18, No. 2, June 1999.

[13] 1998 Caribbean Basin Profile, p. 313.

[14] *The Montserrat Reporter*, 7 May 1999.

[15] Ibid., 13 March 1998.

[16] *CANA News Agency*, Bridgetown, 25 April 1998.

[17] "Montserrat Social and Economic Recovery Programme — a Path to Sustainable Development (Sustainable Development Plan)", November 1998, http://www.mninet.com/devunit/Sustainable Development Plan/index.htm.

[18] Eastern and Caribbean Central Bank, *Economic and Financial Review*, vol. 18, No. 2, June 1990.

[19] *Caribbean News Agency NewsEdge Service*, 24 March 2000.

[20] 1998 Caribbean Basin Profile, p.315.

[21] *The Economist* Intelligence Unit, 28 January 2000.

[22] *Los Angeles Times*, 28 October 1999.

[23] *The Montserrat Reporter*, 7 May 1999.

[24] "Scientific and Hazards Assessment of the Montsoufriere Volcano", Montserrat Volcano Observatory, 12 March 1999.

[25] CAT/C/44/Add.1.

[26] *The Montserrat Reporter*, 26 February 1999.

[27] *Caribbean News Agency NewsEdge Service*, 15 March 2000.

[28] DP/CCF/MOT/1.

[29] DP/1999/12

[30] *The Montserrat Reporter*, 30 April 1999.

[31] 1999 Montserrat Budget (www.mratgov.com/budget_speech_1999.htm), 30 March 1999.

[32] See General Assembly resolution 54/90 B, sect. VII, fifth preambular para.

[33] See A/AC.4/54/SR.5, paras. 91-92.

[34] See A/AC.4/54/SR.5, paras. 92-93.

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I. General[1]

1. Gibraltar is a narrow peninsula extending southward from the south-west coast of Spain, to which it is connected by an isthmus about 1.6 kilometres long. The Spanish port of Algeciras lies 8 kilometres across the bay to the west; the continent of Africa is situated 32 kilometres across the Strait of Gibraltar to the south. According to the United Kingdom of Great Britain and Northern Ireland, the area of Gibraltar is 5.86 square kilometres, and according to Spain it is 4.8 square kilometres.

2. The latest census of Gibraltar, taken on 14 October 1991, assessed the Territory's civilian population at 26,703, of which 20,020 were Gibraltarians, 3,811 other British subjects, 1,798 Moroccans and 1,072 of other nationalities. The Gibraltar Statistics Office estimated the population in 1997 at 27,192.[2]

II. Political developments

A. General

3. The 1969 Constitution guarantees basic civil and political rights and attributes. It assigns responsibility for local matters to a local Government. The United Kingdom, however, retains power over matters of defence, external affairs and internal security. The Governor, appointed by the sovereign of the United Kingdom, retains the power to rescind laws passed by the legislature. Furthermore, the Constitution reserves for the sovereign full power to make laws from time to time for the peace, order and good government of Gibraltar (including, without prejudice to the generality of the foregoing, laws amending or revoking that Constitution). A new Governor, Mr. David Durie, replaced outgoing Governor Sir Richard Luce in April 2000. A detailed discussion about the 1969 Constitution, including the positions of Spain and the United Kingdom, is contained in the report of the Special Committee to the General Assembly at its twenty-fourth session.[3]

4. Legislative authority is vested in a single House of Assembly consisting of 15 elected members. Executive authority is vested in a Council, which is composed of the Governor, four ex officio members, the Chief Minister and four elected members, and which acts in an advisory capacity to the Governor. The Council of Ministers is made up of the Chief Minister, members of the House of Assembly designated by the Chief Minister, and some elected members. The Council of Ministers, which acts as a cabinet, holds responsibility for specific domestic matters, with the Governor retaining the prerogative to intervene in support of his responsibilities for defence and external affairs.

5. The legal system of Gibraltar is based on the common law and statute law of England. Gibraltar retains its own court system, which includes lower courts (Court of First Instance, Coroner's Court, Magistrate's Court), a court of appeals and a supreme court. The supreme court has unlimited jurisdiction to hear and determine any civil or criminal proceedings. At present, it consists of the Chief Justice and an additional judge appointed by the Governor.

6. In January 1999, the Parliamentary Under-Secretary of State, Foreign and Commonwealth Office, reaffirmed that the relationship between the United Kingdom and Gibraltar continues to be governed by the 1969 Constitution.

B. General elections

7. The last general elections in Gibraltar were held on 10 February 2000. Approximately 80 per cent of the 18,621 registered voters participated. The incumbent Gibraltar Social Democratic Party (GSD) obtained 58.35 per cent of the vote, followed by the Gibraltar Socialist Labour Party/Liberal Party alliance (GSLP/Liberal) with 40.57 per cent, and independent candidates, with 1.08 per cent. Consequently, GSD won eight seats in the Territorial House of Assembly and the GSLP/Liberal alliance seven seats. Peter Caruana, leader of the Gibraltar Social Democratic Party, obtained 8,747 votes and was appointed Chief Minister of Gibraltar. The GSLP/Liberal alliance, led by Joe Bossano, forms the Opposition.[4] (*www.gibraltar.gi/election*)

C. Recent developments

8. In March 1999, the United Kingdom Secretary of State for Foreign and Commonwealth Affairs issued a White Paper entitled "Partnership for Progress and Prosperity: Britain and the Overseas Territories" (A/AC.109/1999/1, annex), according to which the

relationship between the metropolitan government and its territories must be seen "within the overall framework of modernization and reform, and within Britain's new international role".

9. One of the Government's recommendations concerned the creation of an Overseas Territories Department within the Foreign and Commonwealth Office to ensure better links between the United Kingdom and its Territories. However, the paper indicated that because Gibraltar was within the European Union as part of the United Kingdom membership under the Treaty of Rome — the only Overseas Territory with that status — it would continue to be handled principally by the Foreign and Commonwealth Office's European Departments, reporting to the Minister responsible for Europe.

10. The Government of the United Kingdom launched a Strategic Defence Review in May 1997 to examine most areas of the United Kingdom's defence. The resultant White Paper placed renewed emphasis on the rapid deployment of British forces in response to crisis and pointed out that Gibraltar's facilities provided an independent forward operating base for British forces in the Mediterranean and served as a transit base for vessels en route to the Middle East and elsewhere. According to a report published in June 1999 by the Foreign Affairs Committee of the United Kingdom House of Commons, over the last 15 years, the level of military personnel in Gibraltar has declined from 10,000 to under 1,000, and civilian Ministry of Defence employees, from 15,000 to 1,200. Defence-related expenditure has declined from 70 per cent of gross domestic product (GDP) to 7 per cent.[5]

11. On 19 April 2000, Spain and the United Kingdom successfully concluded discussions to resolve certain difficulties which had arisen relating to Gibraltar authorities in the context of European Union and European Community instruments and related treaties.[6] As a result, formal communications and decisions to be notified between Gibraltar authorities and those in other member States under European Union legislation will be conveyed through a unit established in the Foreign and Commonwealth Office in London. The arrangement, which also covers issues of documentation, finance and police cooperation, clears the way for the passage of stalled European Union legislation. It was also agreed that "these arrangements or any activity or measure taken for their implementation or as a result of them do not imply on the side of the Kingdom of Spain or on the side of the United Kingdom any change in their respective positions on the question of Gibraltar or on the limits of that territory."

III. Economic conditions

A. General

12. Gibraltar has no known natural resources and lacks agricultural land. The industries, trades and services in the Territory mainly supply the needs of its population and the large number of visitors to the Territory. The economy of Gibraltar is largely dependent on tourism and the provision of financial services such as banking, insurance, shipping and portfolio management.

13. The latest available estimate for national income relates to 1995/96, when per capita GDP was 116.80 pounds sterling. Inflation in October 1999 was running at an annual rate of 0.2 per cent.

B. Public finance

14. According to the administering Power, departmental revenue credited to the Consolidated Fund for the year ending on 31 March 1999 totalled £131 million, whereas departmental expenditure amounted to £93.9 million, compared with £76.4 million and £60.1 million, respectively, in March 1997. The main sources of Consolidated Fund revenues were income tax, which totalled £47 million; import duties, which totalled £24.9; and general rates, which totalled £10.9 million.

15. On 31 March 1999, the public debt of Gibraltar stood unchanged from 1997 at £61.4 million. Expenditures from April 1998 to March 1999 were as follows: education, youth, culture and consumer affairs, £14.5 million; environment and health, £13.6 million; electricity, £9.3 million; police, £6.9 million; tourism and transport, £6.2 million; treasury, £5.9 million; secretariat, £5.7 million; building and works, £5.6 million; support services, £3.3 million; customs, £2.6 million; fire service, £2.3 million.

16. Income tax is charged on income accruing in, derived from or received in Gibraltar by any person or company. It is also charged on dividends, interest and

emoluments of office accruing in, derived from or received in any place outside Gibraltar by any person ordinarily resident in Gibraltar, but when that income is taxed in the country of accrual and is not received in Gibraltar, it is exempt. The rates applicable to individuals resident in Gibraltar range from 20 per cent on the first £1,500 of taxable income to 50 per cent after the first £19,500.

C. Trade

17. In 1997, total imports were £300,210,000, including £26,397,000 in foodstuffs and £22,825,000 in manufactured goods. Total re-exports were £49,528,000, including £30,330,000 in machinery and transport equipment. Principal re-exports included petroleum products, manufactured goods, wines, spirits, malt whisky and tobacco. Over one third of Gibraltar's non-fuel imports originated from the United Kingdom. Other sources of imports included Japan, the Netherlands and Spain. Exports of goods of local origin were negligible. Exports consisted mainly of re-exports of petroleum and petroleum products supplied to ships.

18. Import controls did not change during the period under review. Other than a few items of essential foodstuffs, gold, jewellery, petrol, caravans, and endangered species, all goods can be imported under the Open General Licence.

D. Banking and finance

19. There were 25 banks authorized to conduct banking business in Gibraltar at the end of 1999. The banking sector serves offshore and local customers and has balance sheet footings of over £6 billion. According to the administering Power, Gibraltar is required to implement all European Community directives related to financial regulation. Gibraltar has made a commitment not only to implement the necessary measures to the minimum standard required within the European Union, but also to match United Kingdom standards of financial regulation.[7] In that regard, the Government of Spain on several occasions has expressed concern that European Union directives have not been fully implemented in Gibraltar and has disputed information by the administering Power to the contrary. In February 1999, the United Kingdom submitted information to the European Union regarding the number of measures that had been implemented in Gibraltar (39), those that were inapplicable (31) and those that were in the "final stages of transposition" (8). In July 1999, the European Commission decided to refer the United Kingdom to the European Court of Justice for four cases of failure to implement in the Territory of Gibraltar the 4th and 7th Company Law Directives, requiring offshore companies to publish their accounts.[8] According to the administering Power, on 15 October 1999, the Gibraltar House of Assembly adopted the necessary primary legislation to bring into effect the two directives, a step which was notified to the European Commission.

20. As at 31 December 1999, there were approximately 8,300 fully paid companies registered under the Companies (Taxation and Concession) Ordinance. Companies registered under the ordinance pay a fixed annual tax, irrespective of profits made and regardless of whether these profits are received in the Territory. The exemption covers dividends, interest, directors' fees and annual payments made to non-residents. Unless otherwise authorized, the company must not carry on trade or business in Gibraltar or in the United Kingdom and no Gibraltarian or resident of Gibraltar may have any beneficial interest in the company's shares.

E. Transportation, communications and utilities

21. Road transportation in and out of Gibraltar along the isthmus linking the Territory to Spain was disrupted in early 1999. In February 1999, Spain increased controls at its border post with Gibraltar. According to press reports, the Foreign Ministry of Spain announced that it would maintain the border controls until Gibraltar applied European Union directives to impede tax evasion, drug trafficking and money-laundering (see para. 47 below). The controls caused delays of up to six hours for vehicle traffic at the border. According to press reports, the United Kingdom submitted a complaint on the matter to the European Commission. A spokesman for the European Commission stated that there were no limits in the European Union's legislation regarding external border controls.

22. The total length of roads in the Territory is 26.75 miles (about 43.04 km). The roads are reported to be in good condition and suitable for vehicular traffic. Five bus routes serviced by 18 buses maintain communication in the Territory. The total number of

registered vehicles as of 31 December 1999 was 31,349.

23. Airline services to Gibraltar have recently increased. In addition to the scheduled flights to the United Kingdom, a Casablanca-Gibraltar route was inaugurated on 2 November 1999.[9] Airmail is dispatched to London, and via London to all destinations worldwide, six times a week by direct flights. Surface mail to and from the United Kingdom is received and dispatched five times a week.

24. As the Strait of Gibraltar is a principal water route between the Mediterranean Sea and the rest of the world, Gibraltar is used as a port by many long-distance liners and cargo ships. It has dry-dock facilities and a commercial ship repair yard. Tax concessions are available to shipowners who register their ships at Gibraltar. At the end of 1996, there were 23 vessels with a combined weight of 305,593 gross registered tonnage registered in Gibraltar, of which 21 were merchant vessels. According to the Territorial Minister for Tourism and Transport, the ships calling at the Territory in 1998 represented a combined registered tonnage of over 117 million gross tonnes. That figure was expected to rise to 125 million tonnes during 1999.[10]

25. The Government of Gibraltar in December 1999 published a policy paper entitled "The Port of Gibraltar: Beyond 2000" with the aim of increasing revenue from existing port activities, generating new business and creating a Port Authority which would replace the existing Port Department and be self-financing within three years. [11]

26. The local telephone system is operated by Gibraltar NYNEX Communication Ltd., a joint venture company owned by the Government of Gibraltar and Bell Atlantic. International telecommunications are operated by Gibraltar Telecommunications International Ltd. (Gibtel), a joint venture of the Government of Gibraltar and British Telecom.[12] At the end of 1999, the total number of exchange lines was 21,916, a net increase of 1,536 over the previous year.

27. The Electricity Department is responsible for the supply of electricity for civilian use in the Territory. The Ministry of Defence operates a separate undertaking to meet defence requirements. During 1999, maximum electricity demand was 23,100 kilowatts and a total of 120,063,566 kilowatt-hours were generated. Gibraltar is dependent on imported petroleum for its energy supplies.

F. Tourism

28. The total number of tourist arrivals in 1999 was 6.1 million, compared to 6.7 million in 1998. Hotel arrivals in 1999 were 42,031. There are an estimated 2,000 hotel beds in Gibraltar. The Ministry of Tourism and Transport has introduced a policy for increasing the amount of cruise ships that visit the Territory. According to the Minister, as of November 1999, 218 cruise calls had already been booked for Gibraltar during 2000 and more were expected.[13]

IV. Social and educational conditions

A. Labour

29. According to the latest employment survey, the number of employees in Gibraltar was approximately 13,000. The total number of unemployed persons at the end of 1999 was estimated at 446.

30. In April 1998, average weekly earnings for full-time workers in the Territory were £233.03. At the end of 1999, the distribution of persons employed by the five largest sectors was as follows: banking and finance, £2,027; public administration and defence, £2,041; retail trade, £1,755; building and construction, £1,224; and medical and health service, £788.

31. Legislation regulating labour and employment conditions in the Territory is reported to be in line with European Union directives. The Trade Unions and Trade Disputes Ordinance of Gibraltar contains provisions similar to those in the United Kingdom for the registration and organization of trade unions. As of December 1995, 20 trade unions were registered in the Territory.

B. Human rights and the status of women

32. The Gibraltar (Constitution) Order of 1969 guarantees the protection of the fundamental rights and freedoms of the individual and the maintenance of a Supreme Court with unlimited jurisdiction to hear and determine any civil or criminal proceedings under any law and with such jurisdiction and powers as are

conferred upon it by the Constitution of Gibraltar or any other law.

33. Several major international human rights instruments have been extended to the Territory by the administering Power. These include the Convention on the Prevention and Punishment of the Crime of Genocide, the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

34. The status of women in Gibraltar, whether married or single, with or without family responsibilities, is similar to that enjoyed by women in the United Kingdom. The Social Security (Insurance Ordinance) of Gibraltar provides for the payment of a variety of benefits and allowances to expectant mothers and widows.

35. On 18 February 1999, the European Court of Human Rights determined by a vote of 17 to 2 that, with regard to Gibraltar, the United Kingdom had violated article 3 of Protocol 1 of the European Convention on Human Rights, concerning the right to participate in European parliamentary elections. The proceedings had been initiated by a citizen of Gibraltar who, upon applying to register as a voter in the European parliamentary elections in 1994, had been told that, under the terms of the European Community Act on Direct Elections of 1976, Gibraltar was not included in the franchise. The Court ruled that article 3 of Protocol 1 applied to Gibraltar and that the United Kingdom was responsible for securing the rights guaranteed by it.

36. In response to questions posed about the ruling in the fourth report of the Foreign Affairs Committee, in October 1999, the Secretary of State for Foreign and Commonwealth Affairs stated the following:

> "The Government have consistently made clear their intention to comply with the judgement of the European Court of Human Rights and ensure that the people of Gibraltar gain the right to vote in European Parliamentary elections. We have alerted European Union partners to the Court's judgement and tabled a proposal on 16 March 1999 which is currently under discussion in Brussels. The Government are working hard to ensure that this extension of the franchise to Gibraltar is achieved before the 2004 European elections."

C. Environment

37. In 1996, the Environmental Health Department, which was a territorial government department, ceased to exist. The functions formerly carried out by the Department have been transferred to a fully privatized Environmental Agency. The chief Environmental Health Officer is responsible for the overall operation of the Environmental Agency and is answerable to the Minister for the Environment and Health.

38. The Nature Protection Ordinance (1991) protects Gibraltar's terrestrial and maritime life and provides for the creation of nature reserves such as that declared on an area of the Upper Rock. The United Kingdom has ratified a number of environmental conventions on behalf of Gibraltar. The Control of Trade in Endangered Species Ordinance (1998) complies with international and European Union regulations. The European Habitats Directive has been implemented and the designation of sites under the Natura 2000 programme is in progress.

D. Housing

39. According to reports of the administering Power, the Government of Gibraltar has pursued a policy of increased home ownership both to alleviate the housing shortage and to reduce the burden of increasing repair and maintenance costs for its rented accommodations. Home ownership in Gibraltar has increased from a level of 6 per cent in 1985 to 25 per cent in 1994, and to approximately 34 per cent in 1999. At the end of 1999, the government housing waiting list contained 570 applicants, compared with 500 at the end of 1997.

E. Social welfare and assistance

40. The Social Security (Non-Contributory Benefits and Unemployment Insurance) Ordinance covers entitlement and payment of unemployment benefits to unemployed persons previously in employment. Payment of such benefits is financed from the weekly contributions by employers and employees to the Social Insurance (short-term benefit) Fund. The

standard weekly rate of unemployment benefits is £37.20, with an increase of £18.20 per week for any additional dependent adult. During 1999, 655 claims for unemployment benefits were processed and 601 requests were granted.

F. Public health

41. The Gibraltar Health Authority is responsible for providing health care in the Territory. The Authority operates a group practice medical contributory scheme and gives registered persons access to free medical treatment.

42. St. Bernard's Hospital, with a total of 166 beds, provides comprehensive out-patient services and in-patient treatment for acute medical and surgical cases. It also has a maternity section and two wards for elderly patients. The King George V Psychiatric Unit has 60 beds and provides diverse types of psychiatric treatment, including in-patient and out-patient services. In September 1999, a new primary health centre housing general practice surgeries opened to replace the existing territorial Health Centre.[14]

43. According to press reports, Gibraltar has 90 registered medical practitioners in the Territory. These include 56 doctors, 14 dental practitioners and 20 pharmacists. A Medical Registration Board was established as a result of the Medical and Health Ordinance of 1997. The Board monitors the annual registration of medical specialists wishing to practice in Gibraltar. A programme of visits by consultants from the United Kingdom covers specialties such as paediatric neurology, cardio-thoracic surgery and plastic surgery.

44. During 1995/96, total public health expenditures amounted to £20.67 million, compared to £19.9 million in 1994/95.

G. Public education

45. The Education Department continues to be in charge of public education in Gibraltar. Expenditure on education as at the end of March 1999 was £13.98 million (or 12.1 per cent of the total). A programme of major improvements to government schools was completed in 1999 at a cost of £1.14 million.

46. In 1999, there were 13 primary schools (one of them private) enrolling 3,356 students, and two secondary schools enrolling 1,794 students. There is also a technical and vocational college with 198 enrolled students. The number of teachers employed in Gibraltar during the 1999/00 academic year is 354. In addition, 628 Gibraltarians are pursuing university studies in the United Kingdom.

H. Crime and crime prevention

47. The White Paper (see para. 8 above), under the heading "Encouraging good government — combating drug trafficking and drugs-related trade", noted legislation enacted by the local Government in Gibraltar in 1995 and 1996 that banned Gibraltar-based fast boats. According to information supplied by the administering Power, the activities of Gibraltar-based fast boats and rigid inflatables had been effectively eliminated and illicit trafficking involving Gibraltar had ceased to be a problem. During the period under review, the Government of Spain continued to express concern at what it considers to be the use of Gibraltar for laundering proceeds from drug trafficking or other illicit activities. The administering Power has pointed out that Gibraltar has introduced money-laundering legislation meeting United Kingdom and European Commission standards.

48. The administering Power reported 1054 minor offences (such as those related to liquor, disorderly conduct and firearms violations) and 768 arrests for minor offences in 1999, down from 1095 offences and 921 arrests in 1998. Also reported for 1999 were 2035 serious crimes (such as those related to violence against the person, sexual offences, burglary and drugs), down from 2706 reported serious crimes in 1998.

V. Consideration by the United Nations

A. Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

49. The Special Committee considered the question of Gibraltar during the fifty-fourth session of the General Assembly at its 3rd meeting, on 21 June 1999, and had before it a working paper concerning the Territory (A/AC.109/1999/5). The Special Committee heard a statement made by the Chief Minister of Gibraltar, Peter Caruana. In addition, in accordance with a decision taken at the outset of the meeting, a statement was made by William Serfaty, on behalf of the Self-Determination for Gibraltar Group. The Special Committee acceded to the request of the delegation of Spain to participate in the Committee's consideration of the question of Gibraltar. The representative of Spain made a statement at the meeting.

50. At the same meeting, the Special Committee decided to continue its consideration of the question at its next session, subject to any directives that the General Assembly might give in that connection at its fifty-fourth session and, in order to facilitate consideration of the question by the Fourth Committee, to transmit the relevant documentation to the Assembly.[15]

B. Special Political and Decolonization Committee (Fourth Committee)

51. At its 4th meeting, on 5 October 1999, the Fourth Committee heard a statement by the Chief Minister of Gibraltar, Peter Caruana (see paras. 56-66 below) and a statement by petitioner Joe Bossano of the Gibraltar Socialist Labour Party.[16] At its 6th meeting, on 7 October, the Committee heard a statement by the representative of Spain (see para. 68). At the same meeting, the representative of United Kingdom spoke in exercise of the right of reply.[17]

52. At its 7th meeting, on 8 October 1999, the Committee had before it a draft decision entitled "Question of Gibraltar",[18] submitted by the Chairman. At the same meeting, the Committee adopted the draft decision without a vote.[19]

C. Action by the General Assembly

53. At its 71st plenary meeting, on 6 December 1999, the General Assembly, on the recommendation of the Special Political and Decolonization Committee (Fourth Committee), adopted decision 54/423 without a vote. The decision read as follows:

> "The General Assembly, recalling its decision 54/420 of 3 December 1998, and recalling at the same time that the statement agreed to by the Governments of Spain and the United Kingdom of Great Britain and Northern Ireland at Brussels on 27 November 1984 stipulates, *inter alia*, the following:
>
> > "'The establishment of a negotiating process aimed at overcoming all the differences between them over Gibraltar and at promoting cooperation on a mutually beneficial basis on economic, cultural, touristic, aviation, military and environmental matters. Both sides accept that the issues of sovereignty will be discussed in that process. The British Government will fully maintain its commitment to honour the wishes of the people of Gibraltar as set out in the preamble of the 1969 Constitution',
>
> takes note of the fact that, as part of this process, the Ministers for Foreign Affairs of Spain and of the United Kingdom of Great Britain and Northern Ireland hold annual meetings alternately in each capital, the most recent of which was held in London on 10 December 1997, and urges both Governments to continue their negotiations with the object of reaching a definitive solution to the problem of Gibraltar in the light of relevant resolutions of the General Assembly and in the spirit of the Charter of the United Nations."[20]

VI. Future status of the Territory

A. Position of the administering Power

54. At the 7th plenary meeting of the General Assembly at its fifty-fourth session, on 21 September, the representative of the United Kingdom, in exercise of his right of reply, [21] stated:

> "British sovereignty over Gibraltar was clearly established in the Treaty of Utrecht. This legal fact is incontrovertible. Moreover, the British Government stands by the commitment to the people of Gibraltar contained in the preamble to the 1969 Constitution of Gibraltar, which states that the United Kingdom will not enter into arrangements under which the people of Gibraltar would pass under the sovereignty of another State against their freely and democratically expressed wishes.
>
> "The British Government believes that issues relating to Gibraltar can be resolved only by direct talks, such as those established under the 1984 Brussels Declaration. In that regard, we attach importance to continuing the dialogue with Spain as a means to overcoming our differences."

55. The above position was reiterated by the representative of the United Kingdom speaking in exercise of the right of reply at the 6th meeting of the Fourth Committee, on 7 October 1999.[22]

B. Position of the territorial Government

56. At the 4th meeting of the Fourth Committee, on 5 October 1999, the Chief Minister of Gibraltar, Mr. Caruana, said that the essence of the Gibraltar issue was simple enough: Spain claimed from the administering Power, the United Kingdom, the return of sovereignty over Gibraltar, which Spain had ceded to Great Britain in 1713 under the Treaty of Utrecht. The people of Gibraltar, for their part, asserted their right to self-determination enshrined in the Charter of the United Nations for the benefit of all colonial peoples.

57. Spain's position was based on two fundamental principles which were misconceived or inapplicable. First, Spain contended that, in the matter of the decolonization of Gibraltar, the governing principle should be, not the principle of self-determination, but the principle of territorial integrity, which existed in the doctrine of the United Nations in the context of decolonization.

58. The application of the principle of territorial integrity would, according to Spain, require the transfer of sovereignty over Gibraltar by the United Kingdom to Spain, contrary to the unanimous wishes of the people of Gibraltar. This was a curious proposition between three democracies. Spain's references to two or three General Assembly resolutions adopted in the 1960s were also irrelevant and amounted to an attempt to distort their meaning. In fact, what those resolutions did was assert the indisputable doctrine that the principle of self-determination was not applicable to the people of a territory which formed a constituent part of a Member State to enable them to secede from that State. Gibraltar, however, had not been a part of Spain for 295 years and was thus not seeking to secede from Spain. The principle of the non-disruption of territorial integrity was therefore not applicable in the case of Gibraltar.

59. The United Nations doctrine, reaffirmed in the omnibus resolution on decolonization which was adopted every year, was that in the decolonization process there was no alternative to the principle of self-determination. Consequently, the principle of territorial integrity was in no way applicable to the process of the decolonization of Non-Self-Governing Territories. In that connection, it should be emphasized that Gibraltar was a colony since it was on the United Nations list of the remaining Non-Self-Governing Territories. In the case of Namibia, the International Court of Justice had held that international law in regard to Non-Self-Governing Territories as enshrined in the Charter of the United Nations made the principle of self-determination applicable to all of them. In calling Gibraltar a "colonial enclave", Spain sought in vain to suggest that there was a special doctrine relating to the decolonization of such enclaves. The general principles of self-determination and decolonization remained unalterable, whatever semantic labels might be used. It was interesting to note that, in the case of its own enclaves, Ceuta and Melilla, to which Morocco laid claim, Spain made unjustified attempts to draw a distinction between their status and the status of Gibraltar.

60. The second of Spain's fundamental propositions was that the right of the people of Gibraltar to self-determination had been denied by the Treaty of Utrecht

of 1713, under which Spain had the first option to Gibraltar if Great Britain were to alienate sovereignty over it. Even if the Treaty could be interpreted in such a way, given the current principles of international law, there would be no grounds for denying the people of Gibraltar the right to self-determination.

61. In an attempt to discredit the people of Gibraltar, Spain systematically made statements which were untrue or irrelevant. It contended, *inter alia*, that the people of Gibraltar (whom it referred to as "inhabitants") were not indigenous and were therefore not a colonized people. There was, however, no principle that self-determination was available only to "indigenous peoples". If there had been, many former colonies would not now be sovereign independent States. The Charter of the United Nations granted the right of self-determination to the people of Non-Self-Governing Territories.

62. Gibraltar currently enjoyed a large measure of self-government. It had its own elected parliament and Government and had considerable political and administrative autonomy. Gibraltar was totally self-sufficient economically. Far from being a parasite on Spain, it gave employment to over 2,000 Spanish workers. He once again urged representatives of the United Nations to visit Gibraltar to ascertain that what he had said was true.

63. In his address to the General Assembly, Mr. Matutes, the Foreign Minister of Spain, had said that Spain had submitted a proposal to the United Kingdom that took into account the interests of the people of Gibraltar. The so-called "Matutes proposals" provided for the inevitable transfer of sovereignty to Spain after a transitional period during which the United Kingdom and Spain would exercise joint sovereignty over the Territory. That was totally unacceptable to Gibraltar. Gibraltar was currently neither Spain's to claim nor the United Kingdom's to give away. Only the people of Gibraltar themselves could determine their own political future. Then United Kingdom had rejected those proposals as contrary to the wishes if the people of Gibraltar, and Spain now stated that the proposals should be regarded as a "starting point". That was positive if it meant that Spain was able to seek a solution to the issue which would be in accordance with the wishes of the people of Gibraltar.

64. Gibraltar was not afraid of a dialogue with Spain. The Government of Gibraltar was committed to the principle that a dialogue with an open agenda was the only constructive way to move forward in resolving the existing problems and establishing a basis for a viable relationship between Gibraltar and Spain based on friendship, cooperation and mutual respect. However, any dialogue on the future of Gibraltar must be on the basis of the overriding principle that the people of Gibraltar had the right freely to decide their own future. The question of the decolonization of Gibraltar in accordance with the principles of the United Nations Declaration on the Granting of Independence to Colonial Countries and Peoples could not, by definition, be decided on the basis of a bilateral resolution of differences between the administering Power and a third-party territorial claimant.

65. For its part, Gibraltar could not stand still. It did not accept that its options were to remain a colony of the United Kingdom or to become part of Spain. Gibraltar would achieve decolonization through the exercise of its right to self-determination, by a process of reform and the modernization of its current Constitution. To that end, a Select Committee on Constitutional Reform had recently been established to draw up appropriate proposals which would be submitted to the United Kingdom and which could put an end to the colonial status of Gibraltar in a manner acceptable to the people of Gibraltar.

66. The position of the United Nations with regard to Gibraltar was unclear when it spoke of the "eradication of colonialism": he wondered whether it advocated the handing over of Gibraltar to Spain despite the unanimous wishes of its people, or whether it intended to promote the exercise of Gibraltar's right to self-determination. Only the latter was consistent with the mandate of the Special Committee on Decolonization.[23]

C. Position of the Government of Spain

67. At the 7th plenary meeting of the General Assembly, on 21 September 1999, Mr. Abel Matutes, Foreign Minister of Spain, stated:

> "At the conclusion of this Decade for the Eradication of Colonialism, my country continues to endure the presence of a colonial enclave on its territory. Gibraltar was occupied by British troops in 1704, during one of the European wars of succession. The Territory was turned into a military base and the Spanish population was

expelled. Until very recently Spanish citizens in Gibraltar suffered grave discrimination in the exercise of their rights."

"General Assembly resolution 2353(XII) backed the Spanish views on the decolonization of the Territory, recognizing that Gibraltar's colonial situation should be settled not through self-determination, but, rather, through the restoration of Spanish territorial integrity. Unfortunately, its terms have been ignored by the colonial Power. Spain and Great Britain began a process of negotiation on all the issues, including sovereignty, based on the 1984 Brussels Declaration, but no significant progress has been made. Spain has made a proposal to the United Kingdom that takes into account the interests of the inhabitants of the colony and would allow for the recovery of sovereignty over the Territory after a lengthy period, so far without reply. My Government will continue both its dialogue with the United Kingdom and cooperation with the decolonization Committee in following up on this issue".[24]

68. At the 6th meeting of the Special Political and Decolonization Committee (Fourth Committee), on 7 October 1999, the representative of Spain spoke on the question of Gibraltar and said, *inter alia*:

"That the principle of territorial integrity is fully applicable to the decolonization of Gibraltar is not an argument made by Spain alone. There is a very clear, established and unequivocal doctrine of the United Nations on the question of Gibraltar, namely, that the decolonization of Gibraltar is implicit in restoring the territorial integrity of a State, and on that basis the United Kingdom is urged to end the colonial situation of Gibraltar.

General Assembly resolution 1514 (XV) of 14 December 1960 stipulated that: 'Any attempt aimed at the partial or total disruption of the national unity and the territorial integrity of a country is incompatible with the purposes and principles of the Charter of the United Nations.'

This principle was subsequently reiterated by General Assembly resolution 2625 (XXV) of 24 October 1970, which reaffirmed the incompatibility with the purposes and principles of the Charter of any attempt aimed at the partial or total disruption of the territorial integrity of a State. On that basis, successive General Assembly resolutions have established that the principle of territorial integrity is fully applicable to the decolonization of Gibraltar. Among others, resolution 2429 (XXIII) of 18 December 1968, which, like resolution 2353 (XXII) of 19 December 1967, specifically concerns the question of Gibraltar, urged the administering Power to terminate the colonial situation in Gibraltar and reaffirmed that the continuation of the situation is incompatible with the Charter of the United Nations.

There is thus a need for greater exactitude when citing precedents before this Committee, be they decisions of the International Court of Justice or resolutions of the General Assembly. I will refer to the latter, which are best known to the delegates.

It is true that the 'omnibus' resolution speaks of the right of peoples to self-determination, but section A, paragraph 1, immediately qualifies and limits that right by stating that it must be 'in conformity with the Charter of the United Nations and with General Assembly resolution 1514 (XV)', a resolution which, as we know, establishes the principle of territorial integrity with respect to decolonization.

A supposed modernization or reform of the so-called 'constitution' of Gibraltar granted by the United Kingdom in 1969 would only aggravate the problems, rather than resolve them.

We want no one to be able to claim that they were misled. Spain will oppose any attempt which, by cheating the Treaty of Utrecht, the Brussels negotiating process between Spain and the United Kingdom, the doctrine of the United Nations and the annual decisions of the General Assembly, prevents or hinders the result envisaged in the reversion clause established at Utrecht. Although the formal tie of dependency might be maintained with the United Kingdom, the transfer of powers to the local authorities might void the sovereignty held by the administering Power (with respect to the Rock of Gibraltar itself, not the illegally occupied isthmus) of any real content.

In the Treaty of Utrecht, Spain ceded sovereignty over Gibraltar to the United Kingdom. The cession was not voluntary on the part of Spain but was forced upon it. Nevertheless, *pacta sunt servanda*; Spain has always complied with the Treaty of Utrecht, even though it implied the break-up of our national unity and territorial integrity. The validity of the Treaty is recognized by the United Kingdom, Spain and the United Nations. The Treaty of Utrecht and its clauses, including the provisions of article X, are applicable. In conclusion, Gibraltar may be British or Spanish, but any other option is excluded.

Spain has deep respect for the rights of Gibraltarians as citizens. Nevertheless, it does not perceive them as a nation with sovereign rights. Insofar as sovereignty over the territory of Gibraltar is concerned, there are only two sovereignties in question: that of the United Kingdom, as the colonial Power, and that of Spain, since the colony is established on Spanish territory.

Gibraltar lacks natural resources and agricultural land. Its economy, formerly dependent on the United Kingdom military base, is now based on its unusual and privileged position within the European Union, since it is exempt from, *inter alia*, the value-added tax and is outside the Customs Union. Those advantages, combined with the opaqueness of its financial system, have turned it into a 'parasite' economy living on and at the expense of Spain and depressing the neighbouring areas of Spain.

Spain is the first to desire an economic boom and prosperity for the inhabitants of Gibraltar, but its economy cannot be built on flawed foundations. Gibraltar needs to build a sound and unified economy, one that is fully compliant with European Union directives and regulations and that does not accommodate either illegal trafficking or the financial opaqueness which facilitates harmful tax-based competition and has a very adverse impact on Spanish interests, including public finance.

Every year the General Assembly renews its calls for Spain and the United Kingdom to overcome all the differences between them over Gibraltar, including issues of sovereignty, through bilateral negotiations in the light of the relevant resolutions and in conformity with the spirit of the Charter of the United Nations.

Formal negotiations between Spain and the United Kingdom take place in the context of the so-called Brussels process, which began in 1984. Spain has participated in it in good faith, in a generous, brave and constructive spirit, offering two proposals — not as positions set in stone, but as a starting point for negotiations — in an effort to resolve the Gibraltar dispute. The last of these proposals dates from 1997. Despite the good will shown by successive Spanish Governments, 15 years after it began the Brussels process has not yielded any progress.

We have only one course open to us, namely, serious negotiations, which would necessarily end the colonial situation of Gibraltar, since the maintenance of the status quo benefits no one. Spain continues to place firm faith in dialogue.

The Gibraltarians have nothing to fear from that dialogue. Let me remind you that the Spanish authorities have expressed on many occasions their full willingness to ensure due respect for the legitimate interests of the inhabitants of Gibraltar and their particular identity and characteristics.

We are confident that the United Kingdom will ultimately be convinced that, if it desires to develop its relations with Spain to their full potential, it cannot continue to maintain a colonial presence in Spanish territory."

D. Anglo-Spanish negotiations

69. No meetings were held within the negotiating process established by the Brussels joint communiqué of 27 November 1984 during the period under review. It will be recalled that, according to the communiqué, the Ministers for Foreign Affairs of Spain and of the United Kingdom agreed to hold annual meetings alternately in each capital with the objective of reaching a definitive solution to the problem of Gibraltar. The last meeting indicated as being held within the Brussels framework was on 10 December 1997.

70. It will be recalled that, during the last meeting held under the Brussels process, on 10 December 1997, the Spanish Minister for Foreign Affairs made a formal offer to the United Kingdom Government regarding a future status for Gibraltar, whereby the Territory would come under Spanish sovereignty, yet retain a large degree of local political and administrative autonomy (see A/AC.109/2112, para. 72). The Government of the United Kingdom has not formally responded to the proposal.

E. Anglo-Gibraltarian discussions

71. During the period under review, there were regular meetings and discussions between the United Kingdom and Gibraltarian ministers and officials. Those discussions included talks on the modernization of Gibraltar's Constitution. In that regard, Mr. Caruana stated the following during an address to the Royal Commonwealth Society on 21 July 1999:

> "[W]e are greatly encouraged by the reference in the British Government's recent White Paper on the Overseas Territories to modernization being the key to a new partnership between the United Kingdom and the Overseas Territories and expressing an openness and commitment to constitutional modernization and reform. Preliminary discussions in this respect have already been held with the British Government and last month our Parliament unanimously adopted a resolution setting up a Select Committee to review the Constitution and make recommendations on desirable reform thereof."

Notes

[1] Information contained in the present working paper has been derived from information transmitted to the Secretary-General by the Government of the United Kingdom of Great Britain and Northern Ireland under Article 73 *e* of the Charter of the United Nations, on 3 May 2000, as well as from the official documents of the Government of Spain.

[2] www.gibraltar.gov.gi.

[3] *Official Records of the General Assembly, Twenty-fourth Session, Supplement No. 23* (A/7623/Rev.1), vol. III, chap. XI, annex, paras. 7-23.

[4] www.gibraltar.gi/election.

[5] Report by the Foreign Affairs Committee, House of Commons, 8 June 1999, www. parliament.uk.

[6] *Reuters*, 19 April 2000; *El País*, 20 April 2000; *ABC*, 20 April 2000.

[7] "Partnership for Progress and Prosperity: Britain and the Overseas Territories", White Paper submitted to the House of Commons on 17 March 1999 by United Kingdom Secretary of State for Foreign and Commonwealth Affairs; reproduced in A/AC.109/1, annex.

[8] European Commission statement IP/99/439, 2 July 1999.

[9] *Gibraltar Chronicle*, 3 November 1999.

[10] Ibid., 29 November 1999.

[11] Ibid., 10 December 1999.

[12] www.gibraltar.gov.gi.

[13] *Gibraltar Chronicle*, 29 November 1999.

[14] Ibid., 2 September 1999.

[15] A/54/23 (Part II), chap. IX, paras. 66-72.

[16] See A/C.4/54/SR.4.

[17] See A/C.4/54/SR.6.

[18] See A/C.4/54/L.4.

[19] See A/C.4/54/SR.7.

[20] See A/54/PV.71.

[21] To the statement of the representative of Spain (para. 67 below); see A/54/PV.7.

[22] See A/C.4/54/SR.6.

[23] See A/C.4/54/SR.4.

[24] See A/54/PV.7.

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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Falkland Islands (Malvinas)

Working paper prepared by the Secretariat

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I. General

1. The Falkland Islands (Malvinas)[1] is a Non-Self-Governing Territory administered by the United Kingdom of Great Britain and Northern Ireland. The Territory comprises two large islands, known as East and West Falkland, as well as some 200 smaller islands, and has a total area of about 12,173 square kilometres (4,700 square miles). The Territory is situated in the South Atlantic, about 770 kilometres north-east of Cape Horn and about 480 kilometres east of the South American mainland. South Georgia, located about 1,300 kilometres south-east of the Falkland Islands (Malvinas) group, and the South Sandwich Islands, located about 750 kilometres east-south-east of South Georgia, are administered from the Falkland Islands (Malvinas) as a separate Territory; the Governor of the Falkland Islands (Malvinas) acts as Commissioner for South Georgia and the South Sandwich Islands.

2. According to the territorial census report of 1996, the ordinarily resident population in the Territory in 1996 numbered 2,221. This figure is adjusted to take into account persons who reside in the Territory but who were absent during the holding of the census.

II. Constitutional and political developments

A. Constitution and Government

3. The Constitution of the Falkland Islands (Malvinas), which came into effect on 18 April 1985, vests executive power in a Governor, who is the personal representative of the British monarch, assisted by an Executive Council. The Executive Council comprises three members of the Legislative Council elected annually by the eight elected members of that Council from among their own number, and two ex officio members, the Chief Executive and the Financial Secretary, who also sit on the Legislative Council. In addition, the Attorney-General and the Commander of British Forces in the Falkland Islands attend by invitation. The Legislative Council, chaired by the Governor, has eight members elected by universal adult suffrage. General elections are held every four years. The voting age is 18. The Legislative Council also has two non-voting ex officio members, the same two who sit on the Executive Council. It will be recalled that the Constitution of the Territory stipulates, *inter alia*, that: "whereas all peoples have the right of self-determination and by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development and may, for their own ends, freely dispose of their natural resources without prejudice to any obligations arising out of international economic cooperation, based upon the principle of mutual benefit and international law; and whereas the realization of the right of self-determination must be promoted and respected in conformity with the provisions of the Charter of the United Nations".

4. The Falkland Islands Constitution Order 1985, containing the Constitution of the Falkland Islands, came into force on 3 October 1985. The Falkland Islands Constitution (Amendment) Order 1997 came into force on 1 September 1997. A copy of the Falkland Islands Constitution (Amendment) Order 1997 and of the Falkland Islands Constitution (Amendment) (No. 2) Order 1997, which came into force in February 1998, have been submitted to the Secretariat by the administering Power. Further information on constitutional aspects, including amendments to the Electoral Ordinance is contained in document A/AC.109/1999/12.

B. Political developments

5. On 10 June 1999 the Government of Argentina issued the following press release:

> "On 10 June, 'Day of Affirmation of Argentine rights to the Malvinas Islands and the Antarctic Sector', the Argentine nation commemorates the establishment of the Political and Military Command of the Malvinas Islands and the Islands Adjacent to Cape Horn in the Atlantic Ocean, in accordance with the decree by the Interim Governor of the province of Buenos Aires, Brigadier General Martín Rodríguez, in 1829.
>
> "Since the beginning of its existence as an independent nation, the Argentine Republic has demonstrated, through actions by the Government, the firm political determination to exercise its effective sovereignty in the southern

territories and maritime areas inherited from Spain.

"This effective exercise of sovereignty was interrupted when, on 3 January 1833, British forces occupied the Islands, expelling the population and the Argentine authorities established there. Subsequently, Argentine citizens were prevented from settling freely or owning land in those territories.

"The Argentine people and Government never accepted that act of force and today reiterate, just as in the past, their unwavering determination to regain through the peaceful means of diplomatic negotiations and in accordance with the numerous appeals by the international community, the exercise of sovereignty over the Malvinas, South Georgia and South Sandwich Islands and the surrounding maritime areas.

"The Argentine claim has traditionally been supported by the countries of our region and the relevant international bodies, including the General Assembly of the United Nations and the General Assembly of the Organization of American States. These forums have repeatedly requested the Governments of the Argentine Republic and the United Kingdom to resume negotiations making it possible to resolve the sovereignty dispute definitively and in a peaceful manner.

"On this momentous date, the Argentine Government reiterates its constant readiness for dialogue with the United Kingdom, in the search for understandings which would be mutually satisfactory for the interests of both parties and would be certain to lead to a resumption of negotiations on the substance of the question.

"The Argentine Government reaffirms its belief that the re-establishment of communications between the mainland territory and the islands, including the unrestricted access of Argentine citizens to the archipelagos, will create a favourable framework for a peaceful and lasting resolution of the dispute."

6. Argentine and United Kingdom delegations met in London on 13 and 14 July 1999, following previous meetings in London on 25 and 27 May and in New York on 2 July. The Argentine delegation was led by the Minister of Foreign Affairs, International Trade and Worship, Mr. Guido Di Tella. The United Kingdom delegation was headed by the Secretary of State for Foreign and Commonwealth Affairs, Mr. Robin Cook and included members of the Falkland Islands Legislative Council. On 14 July 1999, at the conclusion of discussions held in London between the delegations of Argentina and the United Kingdom, the two Governments signed a joint statement (A/54/229, annex), to record the understandings reached.

7. In a letter dated 14 July 1999 addressed to the Minister of Foreign Affairs, International Trade and Worship of Argentina, the Secretary of State for Foreign and Commonwealth Affairs of the United Kingdom stated that the formula on sovereignty in paragraph 2 of the joint statement issued at Madrid on 19 October 1989 applied to the joint statement of 14 July 1999 and he recorded the understanding between the two Governments on its detailed implementation. In his reply dated 14 July 1999, the Minister of Foreign Affairs, International Trade and Worship of Argentina confirmed those understandings (see A/54/229).

8. At a press conference on 14 July 1999 with the Minister of Foreign Affairs, International Trade and Worship of Argentina, the Secretary of State for Foreign and Commonwealth Affairs of the United Kingdom stated:

> "There is nothing whatsoever in this agreement that compromises the position either of Britain or of Argentina in relation to sovereignty. What this agreement does, though, is show that we have managed our disagreements on sovereignty in a way that has enabled us to make practical arrangements between us and to carry forward the practical business that inevitably arises between the Falkland Islanders and the immediate neighbours on the Latin American mainland. We have got out of this practical measures that will be of benefit to both sides, and that includes the Falkland Islanders. But nothing here compromises either our position on sovereignty or, for that matter, the position of the Government of Argentina."

9. In another letter dated 14 July 1999, addressed to the Minister of Foreign Affairs, International Trade and Worship of Argentina (A/54/230, annex), the Secretary

of State for Foreign and Commonwealth Affairs of the United Kingdom stated:

> "I have the honour to refer to the joint statement we signed in London today and to our exchange of letters, also of today's date, recording the understandings between our Governments on its detailed implementation.
>
> "I should like you to be aware that some of the responsibilities and commitments of the Government of the United Kingdom of Great Britain and Northern Ireland under the aforementioned joint statement and exchange of letters will be discharged by Her Majesty's Government of the Falkland Islands."

10. In a letter dated 14 July 1999, addressed to the Secretary of State for Foreign and Commonwealth Affairs of the United Kingdom, the Minister of Foreign Affairs, Trade and Worship of Argentina stated:

> "In this connection, I wish to inform you that the above-mentioned joint statement and exchange of notes were agreed to under the formula on safeguard of sovereignty contained in paragraph 1 (ii) of the joint statement of the Argentine and British delegations issued in Madrid on 19 October 1989.
>
> "Therefore, any arrangements made by the United Kingdom with a view to their implementation are an internal affair to be decided by its Government, which has no bearing on the nature of the controversy over sovereignty over the Malvinas Islands, South Georgia and South Sandwich and the surrounding maritime areas, or on the Argentine position on the matter."

11. The newly elected President of Argentina, Mr. Fernando de la Rúa, speaking at his inauguration before the Legislative Assembly on 10 December 1999, stated:

> "We will always maintain that it is through dialogue that conflicts may be resolved. This is a course which we will follow strictly in the sacred mission of defending the sovereignty of the Malvinas Islands."

On 21 December, the newly appointed Minister of Foreign Affairs, International Trade and Worship of Argentina, Mr. Adalberto Rodríguez Giavarini, speaking at an official meeting at the Ministry, stated:

> "With regard to the Malvinas Islands and the islands of the South Atlantic, we will continue with peaceful efforts for their recovery, taking action aimed at preserving and reaffirming the sovereign Argentine rights over the islands and adjacent maritime areas, both at the bilateral level — with a friendly country, the United Kingdom — and at the multilateral level.
>
> "We will continue to move forward in the negotiations to the extent that we believe that the claims of sovereign rights are a primary objective. Argentina, of course, will take into account the interest of the islanders, as established by the constitutional mandate."

12. In December 1999, United Kingdom Foreign Office Minister Mr. Battle said at a meeting of the House of Commons: "A number of the measures set out in the British-Argentine Joint Statement of 14 July have already been implemented. The Falkland Islands Government have admitted Argentine passport-holders to the Falklands since July. All deadlines have been met to restore air links between the Falklands and South America and to introduce measures to combat the common menace of poaching of fish stocks. We continue to consolidate progress on the remaining issues. We are working with Argentina on a Memorandum of Understanding on the terms of a study to determine the cost and feasibility of removing the remaining land mines from the Falklands. Both sides continue to work towards a multilateral arrangement to regulate fishing in the high seas of the South-West Atlantic. An Argentine architect has recently visited the Falklands to discuss proposals for construction of a memorial at the Argentine cemetery there. The Argentine Government are committed to review their use of Falklands place names. None of these developments affect our commitment to defend the Islanders' right to determine their own future. The sovereignty of the Falkland Islands is not for negotiation."

13. In a message broadcast on 24 December 1999, the Prime Minister of the United Kingdom, Mr. Tony Blair stated:

> "... This has been an eventful year for the Falkland Islands. Earlier this year, your Legislative Council asked us to begin a new dialogue with Argentina to discuss some issues of importance to you. Councillors have played a

significant part in this process and approved the joint statement that was signed on 14 July here in London by Robin Cook and Guido Di Tella. I want to pay tribute to their vision and determination. I believe they are pursuing a policy that is in the best interest of the Falkland Islands.

"Air links with South America have been re-established. Cooperation has been strengthened with Argentina to conserve fish stocks in the South West Atlantic.

"These are important achievements. They show that we can manage our differences with Argentina and still make progress on practical issues.

"As part of that July agreement, Councillors also lifted a ban which had been in place for almost two decades on Argentine passport holders visiting the Islands. I know that this was not an easy decision, but I am convinced that it was the right thing to do. The Argentine people now have the opportunity to see the Islands for what they are, to meet you, see how you live and to understand the essential Britishness of the Falkland Islands.

"When I spoke to the new President of Argentina in Paris just after his election, I welcomed his support for our July agreement. In turn, he assured me of his commitment to continuing our dialogue. I hope this will result in further improvements in regional cooperation and understanding. (...)"

14. By letter dated 4 January 2000 (A/54/701), the Chargé d'affaires a.i. of the Permanent Mission of Argentina transmitted to the Secretary-General a press communiqué "on the occasion of another anniversary of the illegitimate British occupation of the Malvinas Islands" issued by the Government of Argentina on 3 January. The press communiqué read as follows:

"On 3 January 1833, British forces occupied the Malvinas Islands, expelling their inhabitants and the Argentine authorities established there. Since today marks the 167th anniversary of that illegitimate occupation, the Argentine people and Government reaffirm the Argentine Republic's imprescriptible rights of sovereignty over the Malvinas, South Georgia and South Sandwich Islands and the surrounding maritime areas.

"The Government reiterates on this occasion the unfailing determination of the Argentine people, enshrined in the National Constitution, to recover the full exercise of sovereignty over the territories and maritime areas referred to by means of a peaceful settlement of the disputes in accordance with international law, respecting the way of life and interests of the inhabitants of the Islands.

"The Argentine Government declares its firm intention to continue making headway in the dialogue with the United Kingdom in order to consolidate a relationship of mutual trust and expand bilateral cooperation.

"It is the belief of the Argentine Government that the resumption of the negotiations on the question of sovereignty, in accordance with the numerous and ongoing appeals by the international community, will help to create a favourable framework for achieving a just and definitive settlement of the dispute."

15. Secretary of State for Defence of the United Kingdom, Mr. Geoffrey Hoon, visited the Falkland Islands (Malvinas) in March 2000. Subsequently, he visited Argentina, where he held meetings with the Defence Minister of Argentina, Ricardo López Murphy. He was also received by the President of Argentina, Mr. Fernando de la Rúa.

16. By letter dated 23 March 2000 (A/54/811), the Permanent Representative of the United Kingdom referred to the letter dated 4 January 2000 from the Chargé d'affaires a.i. of the Permanent Mission of Argentina (see para. 13) and stated:

"The Government of the United Kingdom of Great Britain and Northern Ireland has no doubt about the sovereignty of the United Kingdom over the Falkland Islands and South Georgia and the South Sandwich Islands and rejects as unfounded the claim by the Government of the Argentine Republic to sovereignty over those islands and the surrounding maritime areas and that the Falkland Islands are under illegal occupation by the United Kingdom."

III. Mine clearance

17. In 1994, the Government of Argentina offered to assume the task of removing the mines laid in the Falkland Islands (Malvinas) by the armed forces of Argentina during the conflict of 1982. An Action Agenda issued by Prime Minister Blair and President Menem on 28 October 1998 stated that both Governments would work together to evaluate the feasibility and cost of clearing the landmines that remained in the Falkland Islands (Malvinas). Work on a memorandum of understanding setting out how this feasibility study would be carried out is under way. Both Governments reaffirmed their commitment to cooperate on mine clearance in the joint statement of 14 July 1999.

IV. Economic conditions

A. General

18. According to the administering Power, the pace of economic development has accelerated dramatically since 1982; this rapid growth resulted initially from the influx of British Government aid, but more recently from the development of fisheries. The size of the fisheries' revenues and their subsequent investment have enabled improvements to be made in the infrastructure and the promotion of tourism and other enterprises, which will help to diversify the economy. The basic challenge is to increase economic security through diversification, including further development of tourism and diversification of agricultural production.

B. Public finance

19. The Territory's financial year runs from 1 July to 30 June. The statement showing total receipts and payments for the year ended 30 June 1999 shows an actual total revenue of £44,874,890 and an actual total expenditure of £44,875,891. Estimated expenditures for 1999-2000 total £44,101,790.

C. Agriculture, land tenure and livestock

20. The Department of Agriculture continues to be responsible for this sector of the economy. The agricultural budget for 1998/99 totalled £1,167,400.

21. The land is devoted for the most part to sheep ranching to produce wool. According to information provided by the administering Power, the continuing low price of wool continues to give cause for concern and the Department of Agriculture is endeavouring to encourage agricultural diversification. Programmes relating to wool production and marketing continue to be a major focus. Wool preparation, the promotion of Falkland Island (Malvinas) wool's chemical free or "organic" status and investigations into reducing the costs associated with the sale of Falkland Islands (Malvinas) wool are ongoing. In addition, efforts are being made to diversify the rural economy. The construction, with European Union funds, of an abbattoir will enable the development of a meat industry. Pasture improvement and a range of other agricultural activities are also taking place.

D. Fisheries

22. Squid, including *Loligo* and *Illex*, are the mainstay of the territorial fisheries and economy. Revenue from fishing licences was £17 million in the financial year ending in July 1998. For the fiscal year ending in June 1999, the revenue from fishing licences is estimated at £20 million, approximately 48.2 per cent of the total annual ordinary revenue of the territorial Government. Government expenditure on fisheries in 1998/99 amounted to £5,612,229.

23. The South Atlantic Fisheries Commission held its fifteenth meeting in London on 16 June 1999. The British delegation was led by the Head of the Overseas Territories Department, Foreign and Commonwealth Office, Mr. John White, and the Argentine delegation was led by the Legal Counsel, Ministry of Foreign Affairs, International Trade and Worship, Orlando R. Rebagliati. The British and Argentine delegations agreed to apply to the meeting and its consequences the formula on sovereignty over the Falkland Islands, South Georgia and South Sandwich Islands and the surrounding maritime areas agreed by the British and Argentine Governments in paragraph 2 of the joint statement issued at Madrid on 19 October 1989. In a statement issued at the conclusion of the meeting, the

Commission welcomed the report of the Scientific Subcommittee on its 13th meeting, which was held in London on 14 and 15 June 1999. It took note of the cooperation between the Instituto Nacional de Investigación y Desarrollo Pesquero (INIDEP) and the Imperial College, and of the progress made on joint research. The Commission expressed its satisfaction at the progress made by the Subcommittee and agreed to recommend to both Governments the Subcommittee's proposals. Both delegations expressed their commitment to the conservation of fish and squid stocks in the South Atlantic and reaffirmed their support for the Early Warning System and the need to improve the exchange of real time data on fishing operations. The Commission agreed to recommend that a workshop should be held to improve understanding of the calculation of the status of the squid stock and its assessment. It noted that a joint workshop between Imperial College and INIDEP to assess the Southern Blue Whiting stock had taken place and welcomed the progress made by the Subcommittee and its workshop in achieving a more comprehensive assessment of the actual status of this stock. It noted the conclusion of the Subcommittee that, since 1978, the stock size had significantly reduced to levels which could jeopardize the fisheries. It recommended that both Governments should continue to analyse the status of the stock, including through joint research cruises, and take measures to ensure the recovery of the stock to an exploitation level which is sustainable. The Argentine delegation made reference to the concern of the Government of Argentina about the situation created by the British decision with respect to the area described in the annex to the joint statement of 26 November 1990 and the area to the west of it. It expressed the hope that the matter would be resolved. The British delegation re-stated its position.

24. An ad hoc meeting of the South Atlantic Fisheries Commission took place in Madrid on 2 and 3 September 1999. The British delegation was led by the Head of the Overseas Territories Department of the Foreign and Commonwealth Office, Mr. John White, and the Argentine delegation by the Legal Counsel of the Ministry of Foreign Affairs, International Trade and Worship, Orlando R. Rebagliati. The British and Argentine delegations agreed to apply to the meeting and its consequences the formula on sovereignty over the Falkland Islands, South Georgia and the South Sandwich Islands and the surrounding maritime areas agreed by the British and Argentine Governments in paragraph 2 of the joint statement issued in Madrid on 19 October 1989.

25. In a communiqué issued at the end of the meeting, it was stated that the Commission had reviewed the provisions on fisheries set out in the joint statement and exchange of notes signed in London by the Foreign Ministers of the United Kingdom and Argentina on 14 July 1999. It discussed the shared commitment of the parties to the maintenance and conservation of fish stocks in the South Atlantic and ways of enhancing existing levels of cooperation. The delegations agreed on the importance of ensuring the stability of fish stocks and agreed that there should be further development of scientific cooperation building on the work of the Scientific Subcommittee, including through an enhanced exchange, in real-time, of scientific data on significant species in the area. They recalled the economic significance of the South Atlantic fisheries and agreed to coordinate the exchange of information about their respective regulatory policies and administrative measures. The Commission agreed on the need for timely adoption of longer-term measures to ensure the sustainability of fish stocks in the high seas of the South West Atlantic, and that this should be achieved through the early establishment of a multilateral fisheries arrangement. The delegations agreed that poaching undermined their shared commitment to the maintenance and conservation of fish stocks in the South Atlantic and agreed to recommend to their respective Governments practical measures to be coordinated and put in place by 9 October 1999 with the purpose of preventing poaching. The Argentine delegation referred to the concern of the Government of Argentina on the situation created by the British decision with respect to the area described in the annex to the joint statement of 26 November 1990 and the area to the west of it. It expressed the hope that the matter would be solved. The British delegation restated its position.

26. On 8 October 1999, the Governments of the United Kingdom and Argentina issued a press communiqué in which they stated that, as agreed in the joint statement of 14 July 1999, British and Argentine officials continued consultations subsequent to the Madrid meeting of the South Atlantic Fisheries Commission in September 1999 to consider the question of the relative stability of fish stocks, poaching and other questions related to it. The Governments of the United Kingdom and Argentina

confirmed that the practical measures discussed in Madrid had been put in place. Both Governments had met the common objective of introducing practical measures to prevent poaching and were making progress on promoting the maintenance and conservation of fish stocks in the South Atlantic. In the joint press statement of 3 September 1999, the Commission had agreed that there should be further development of scientific cooperation building on the work of the Scientific Subcommittee, including an enhanced exchange of scientific data on significant species in the area. This work was continuing together with exchanges of information about regulatory policies and administrative measures. The Commission renewed its commitment to ensure the sustainability of fish stocks in the high seas of the South West Atlantic through the early establishment of a multilateral fisheries agreement. The Governments of the United Kingdom and Argentina expressed confidence that the process outlined in the 14 July joint statement and carried forward in the Madrid consultations would help them to ensure the conservation and sustainability of fish stocks in the South Atlantic.

27. The South Atlantic Fisheries Commission held its sixteenth meeting in Buenos Aires on 25 and 26 November 1999. The British delegation was led by the Head of the Overseas Territories Department of the Foreign and Commonwealth Office, Mr. John White, and the Argentine delegation was led by the Head of the Malvinas and South Atlantic Department of the Ministry of Foreign Affairs, International Trade and Worship, Minister Silvia Merega. The British and Argentine delegations agreed that there applied to the meeting and its consequences the formula on sovereignty over the Falkland Islands, South Georgia and the South Sandwich Islands and the surrounding maritime areas contained in paragraph 2 of the joint statement issued in Madrid on 19 October 1989, and reproduced in the following joint statements. The Commission welcomed the report of the Scientific Subcommittee on its 14th meeting, which was held in Mar del Plata, Argentina, on 23 and 24 November 1999 and the continuing cooperation between INIDEP and the Imperial College, highlighting particularly the progress made on understanding problems affecting Southern Blue Whiting. The Commission agreed to recommend the Subcommittee's proposals to both Governments. Both delegations concurred in the importance they attach to ensuring the stability of fish stocks and reiterated the commitment of both Governments to the conservation of fish and squid stocks of the South West Atlantic. They recommended to both Governments the continuation of further scientific developments towards a greater understanding of the most significant offshore species in the area. Both delegations reaffirmed their support for the Early Warning System, and the need to improve the exchange of real time data in fishing operations. The Commission agreed to recommend to both Governments that every effort be made to maintain the level of 40,000 metric tons of *Illex* spawning stock biomass at the end of the fishing season in order to ensure stock sustainability. The Commission noted the concerns raised in the Subcommittee about the level of uncertainty associated with the estimation of recruitment of the short-fin squid, *Illex*. As an enhancement of the Early Warning System, it was agreed to recommend a workshop on *Illex* as a means of ensuring appropriate methodologies for the continued effective operation of the Early Warning System. Both delegations exchanged views on conservation and other measures affecting the fisheries of the South West Atlantic, the need for further exchanges of information. They discussed ways of ensuring the relative stability of fisheries, recalling their economic significance. The Commission agreed on the need for timely adoption of longer-term measures to ensure the sustainability of fish stocks in the high seas of the South West Atlantic through the early establishment of a multilateral fisheries arrangement. It noted the concerns expressed by the Subcommittee that current catch levels on the Southern Blue Whiting stock were not sustainable and should be further reduced next year in order to achieve stability. In the case of *Illex*, they concurred in recommending to maintain a precautionary approach. The Commission further recommended that an extended workshop should take place in conjunction with the next meeting of the Subcommittee in order to extend current progress being made in the assessment of the actual status of the Southern Blue Whiting stock and of hoki and to plan the joint research cruise. Both delegations agreed that poaching undermined their shared commitment to the maintenance and conservation of fish stocks in the South Atlantic. In this context, they recalled their respective Governments' commitment to continue the application of practical measures with the purpose of preventing poaching. The Argentine delegation reiterated the concern of the Government of Argentina about the situation created by the British

decision with respect to the area described in the annex to the joint statement of 26 November 1990 and the area to the west of it. It expressed the hope of the Government of Argentina that the matter would be resolved. The British delegation reiterated its position.

E. Tourism

28. The number of persons arriving and departing the Territory continued on an upward trend during 1998. Some 10,140 persons arrived during 1998. Of these, 8,816 came by air and 1,324 by sea. About 3,430 were residents; visitors totalled 2,790. On the other hand, 9,768 persons departed. Flights to Chile, which had been suspended in March 1999, resumed in early August 1999. Since October 1999, flights have included stopovers in Puerto Gallegos, Argentina, on the route between Punta Arenas and the Mount Pleasant Airport.

F. Oil

29. The seventh meeting of the South-West Atlantic Hydrocarbons Commission was held in Buenos Aires on 22 July 1999. The British delegation was led by Peter Westmacott, Director of the Americas Command, at the Foreign and Commonwealth Office, and the Argentine delegation by Eduardo Airaldi, Under-Secretary for Foreign Policy, at the Ministry of Foreign Affairs, International Trade and Worship. A meeting of the Subcommittee for the Special Cooperation Area was held on 20 and 21 July 1999. The British and Argentine delegations agreed that there applied to the meeting and its consequences the formula on sovereignty over the Falkland Islands (Malvinas), South Georgia and the South Sandwich Islands and the surrounding maritime areas, set out in paragraph 1 of the joint declaration of 27 September 1995.

30. In a joint statement at the conclusion of the meeting, the Joint Commission expressed satisfaction at the progress made by its Subcommittee in the treatment of several questions related to the launch of a licensing round in the Special Cooperation Area. The Joint Commission confirmed its commitment to a launch of the licensing round in the Special Cooperation Area. It noted that it was important to maintain the present momentum of work to achieve that objective. The Joint Commission agreed that further work was necessary on the proposed marking scheme for bids, health and safety issues, harmonization of licence terms and conditions, future environmental work and taxation, and that this should include intersessional contact between experts through the usual channels. The Joint Commission gave particular consideration to issues related to the protection of the marine environment of the South West Atlantic. It agreed that additional work would be required in order to complete the collection of data necessary to reach a better understanding of the marine environment. The Joint Commission agreed to give further consideration to the analysis and accomplishment of joint scientific research projects. Both sides considered the development of cooperation over the promotion of the exploration for and exploitation of hydrocarbons in the maritime areas of the South West Atlantic subject to the controversy on sovereignty and jurisdiction. They noted the importance of continuing to share information relevant to the conduct of that work. They also reiterated their commitment to create the conditions for substantial participation in activities by companies from the two sides. The Joint Commission expressed its satisfaction with the progress achieved since their last meeting. Joint work was going forward in a cordial and constructive atmosphere.

G. Transport, communications and other basic facilities

31. Detailed information on this area is contained in the working paper prepared by the Secretariat in 1999 (A/AC.109/1999/12). Additional information is given below.

32. In August 1999, flights between Chile and the Falkland Islands (Malvinas), which had been suspended since March 1999, resumed. Since October 1999, two stops per month at Río Gallegos, one in each direction, have taken place.

H. Banking

33. Both British and local coinage is used, together with local currency notes. There is parity between the United Kingdom and Falkland Islands (Malvinas) currency. The Standard Chartered Bank of the United Kingdom has been operating in Stanley since December 1983.

I. Public works

34. The Design Section of the Public Works Department has produced documentation for contract works worth approximately £1.7 million and for direct labour works worth approximately £100,000. Surveying and plotting of farm boundaries has continued together with surveys of settlements and Stanley Common.

35. Construction and maintenance of roads has continued. In the north of East Falkland, a road to Bombilla from the Hope Cottage area has been completed, while road construction to Salvador has commenced. Progress has been maintained on new road construction in the north of West Falkland with the road to Main Point and Shallow Bay completed. Under the camp Link Road Assistance project, the road to San Carlos was completed. The road surfacing crew has laid asphalt at the East Stanley infrastructure development site and a number of other roads in Stanley.

36. The new processing plant at the Pony's Pass Quarry completed its first full year of production, producing approximately 75,000 tons of high-quality aggregates. Improvements in working practices and management systems have resulted in higher net revenue per ton. The new financial year will see development of a second working level, releasing reserves in excess of one million tons, considerably extending the life of the operation.

V. Social conditions

A. General

37. According to the administering Power, the Territory observes the principles contained in the Universal Declaration of Human Rights. The provisions of the European Convention for the Protection of Human Rights and Fundamental Freedoms has been extended to the Falkland Islands (Malvinas) by the administering Power. Further, the United Kingdom has extended the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights to the Territory and observes the regular reporting procedures under these instruments. The common law of the United Kingdom applies in the Falkland Islands (Malvinas) except insofar as it is inconsistent with any enactment of the law applying to the Falkland Islands (Malvinas).

38. There is no discrimination on the basis of sex in the implementation of articles 2 and 3 of the International Covenant on Civil and Political Rights. The Convention on the Elimination of All Forms of Discrimination against Women has been applied by the United Kingdom in the Falkland Islands (Malvinas) with the agreement of the territorial Government.

B. Public health

39. According to the administering Power, the general state of health and nutrition of the population and the standard of medical care in the Territory are similar to those in North America and Europe. There is no private system of medical care. The total expenditure of the Medical Department on all aspects of health care and public health for 1997/98 is as follows: recurrent expenditure, £2,983,720; special expenditure, £48,800; and capital expenditure, £86,000.

40. Since 1987, all civilian medical services in the Falkland Islands (Malvinas) have been based at the King Edward VII Memorial Hospital in Stanley. The hospital has 28 beds, including 2 for maternity patients and 2 for intensive care.

41. Vital health statistics for 1996 and 1997 are as follows: there were 21 births in 1996 and 29 in 1997; the number of total deaths was 19 in 1996 and 12 in 1997; and there were two deaths of infants under one year old in 1996 and none in 1997.

C. Social security and welfare

42. Medical and dental treatment and drugs are free to all residents and to citizens of the United Kingdom. The Falkland Islands Retirement Pension provides for mandatory fixed weekly contributions by all employers and employees between the ages of 17 and 64. The Falkland Islands Pensions Scheme Ordinance 1997 commenced during 1998. The scheme provides a national defined contribution vehicle through which employers, self-employed individuals and other individuals in the Territory can make contributions under employer-employee agreements or voluntarily during their working lives and receive a pension upon retirement.

43. A system of social welfare grants and pensions is in operation to deal with cases of hardship and disability. Expenditure for the financial years 1996 and 1997 was £49,000.

D. Housing

44. The Planning Ordinance of 1991 governs development. The legislation is structured to impose stricter controls on development in Stanley than in the rural areas. Construction at East Stanley has resulted in a significant increase in the number of Government-owned houses and the Housing Section has been active in meeting tenants needs. The Government rents to government employees and other residents of Stanley. The majority of the houses in Stanley are privately owned.

VI. Educational conditions

45. The educational system of the Territory, governed by the Educational Ordinance of 1989, is the responsibility of the Director of Education, who is an officer of the Falklands Islands (Malvinas) Government. He is advised by the Education Board.

46. Education is compulsory for all children between the ages of 5 and 16 years. The territorial Government bears all the costs of materials, books and equipment, and also provides funding for studies in the United Kingdom for students above the age of 16 who qualify through exams.

47. There are two schools in Stanley, a junior school and, since 1992, the Falkland Islands Community School. Outside Stanley, there are approximately 42 children of school age living in some 22 scattered farm settlements. The younger children attend small settlement schools or are taught by travelling teachers. Older students attend school in Stanley.

48. Expenditure on education for 1998 and 1999 is estimated at £3.33 million. The cost of overseas training for further higher education is estimated at £492,000.

VII. Other developments

49. Since the issuance of the previous working paper (A/AC.109/1999/12), further groups of relatives of Argentines who died in the 1982 conflict visited the Falkland Islands (Malvinas) in October, November and December 1999 and in February and March 2000. Five groups of direct relatives, of 20 persons each, accompanied by a priest, visited the Argentine cemetery and attended religious services. These trips departed from Río Gallegos.

VIII. Participation in international organizations and arrangements

50. The Government of the Falkland Islands (Malvinas) participates in activities of the Commonwealth and is a member of the British Dependent Territories Association. Representatives of this Government have participated, as members of the United Kingdom delegation, in discussions on matters affecting their interests, such as those leading to the 14 July 1999 joint statement.

IX. Consideration by the United Nations

A. Special Committee

51. The Special Committee considered the question of the Falkland Islands (Malvinas) at its 10th meeting on 1 July 1999. At its 3rd meeting, on 21 June 1999, the Special Committee granted requests for hearing to Ms. Sharon Hanford and Ms. Jan Cheek of the Legislative Council of the Falkland Islands, Mr. Alejandro Betts, Mr. Carlos Moyano Llerena and Mr. Ricardo Ancell Patterson, who made statements at the 10th meeting, on 1 July 1999. At its 10th meeting, the Committee acceded to the requests of the delegations of Argentina, Uruguay (on behalf of the States members of the Southern Cone Common Market (MERCOSUR) plus Bolivia and Chile) and Paraguay to participate in the consideration of the item. At the same meeting, the representative of Chile introduced, also on behalf of Bolivia, Cuba and Venezuela, a draft resolution on the question (A/AC.109/1999/L.5).

52. At the same meeting, the Minister of Foreign Affairs, International Trade and Worship of Argentina made the following statement:

> "We have always claimed our sovereign rights over the Malvinas, South Georgia and

South Sandwich Islands and, along with much of the international community, we have been requesting the United Kingdom to hold talks on this issue and other issues which will help us establish harmonious and normal relations in the South Atlantic. This leads me directly to the heart of the problem and the centre of what could be a road to solution.

"When we speak of the Malvinas Islands, we do not hesitate to recognize the existence of an identifiable and well-defined community. There is no doubt that many of the islanders are the descendants and the result of a forcible territorial occupation which took place at the beginning of the nineteenth century. Virtually cut off from what was taking place only a few kilometres away, they lived and evolved alongside continental Argentina. It is clear from the events which occurred in 1833 that there was an earlier community, which had been largely displaced from the islands.

"The island community, whose existence and culture we are committed to respecting in our own Constitution, has a clear, dominant British identity, a characteristic which we recognize, but which is largely a result of the administrative shackles imposed for decades by the occupying power, which have distorted the normal development of the South Atlantic."

53. At the same meeting, the representative of Uruguay, on behalf of the States members of the Southern Cone Common Market (MERCOSUR) (Argentina, Brazil, Paraguay and Uruguay) and of Bolivia and Chile, said that, even as the end of the International Decade for the Eradication of Colonialism approached the question of the Falkland Islands (Malvinas) remained on the agenda of the Special Committee. It was thus necessary to make every effort to make progress on this issue. He recalled the Declaration on the Malvinas adopted at the tenth meeting of Presidents of the States members of MERCOSUR and of Bolivia and Chile, held at Potrero de Los Funes, Argentina, on 25 June 1996, at which the Presidents reaffirmed their support for the legitimate right of Argentina in the sovereignty dispute on the question of the Falklands (Malvinas) urging that the controversy should be resolved as soon as possible in accordance with resolutions of the United Nations and the Organization of American States. He also drew attention to the sixteenth meeting of Presidents of States members of MERCOSUR and Bolivia and Chile, held in Asuncion, Paraguay, on 5 June 1999. On that occasion, the Presidents noted with satisfaction the positive dialogue between Argentina and the United Kingdom with regard to the situation in the South Atlantic, they recalled the Potrero de Los Funes Declaration and reiterated their unwavering commitment to the policy of securing communications and free transit of persons with the Falkland Islands (Malvinas), without discrimination and in a fluid and friendly manner.

54. During the debate on the question, the representative of Antigua and Barbuda said the issue of the Falkland Islands (Malvinas) was not an issue of decolonization, but rather it was an issue that should be placed before the Security Council or the General Assembly. The representative of Venezuela said that his country believed that negotiations between Argentina and the United Kingdom were the only way to resolve the dispute. The representative of Indonesia expressed confidence that the dispute would eventually be amicably settled to the satisfaction of all parties concerned. The representative of Fiji said his delegation believed that it was necessary to focus on the persons inhabiting the Territories, and that the Committee needed to consult with the International Court of Justice for a legal opinion on the dispute. The representative of Grenada said that the dispute between Argentina and the United Kingdom had become less confrontational. He suggested that the inhabitants of the Falkland Islands (Malvinas) should be involved in the process of discussions. The representative of Cuba said that his country supported the legitimate right of Argentina over the sovereignty of the Falkland Islands (Malvinas). The representative of China expressed the hope that talks between the United Kingdom and Argentina would continue and that the situation would be resolved soon. The representative of Bolivia said his country recognized the right of Argentina over the sovereignty of the Falkland Islands (Malvinas). At the same meeting, the Special Committee adopted the draft resolution without a vote (see A/AC.109/1999/23). Following the adoption of the resolution, the representative of Sierra Leone made a statement in explanation of position in which he urged both sides in the conflict to find an agreeable solution. The Committee should ensure that the interests of the people of the Falkland Islands (Malvinas) were taken

into account. He also said that the Islanders should be given the right to self-determination.

B. General Assembly

Position of the Government of Argentina

55. During the general debate at the fifty-fourth session of the General Assembly, the President of Argentina, Mr. Carlos Saúl Menem, in the course of his statement at the 7th plenary meeting, on 21 September 1999, reiterated the position of his Government as follows:

> "Allow me once again to refer to the pending sovereignty dispute concerning the Malvinas Islands.
>
> "One of the first measures we adopted upon taking office was to re-establish diplomatic relations with the United Kingdom, in February 1990.
>
> "Since then, while reaffirming our sovereignty rights and motivated by a spirit of reconciliation, we have worked harmoniously with the United Kingdom on various matters relating to the South Atlantic, such as the rebuilding of a climate of mutual trust in the area, the preservation of live marine resources, the exploration and exploitation of hydrocarbons, the resumption of flights between the continent and the Malvinas Islands, and the access of persons carrying Argentine identity documents to the Malvinas Islands.
>
> "Argentina is a country that is proud of its cultural diversity. Our Constitution establishes as a national goal the recovery of the Malvinas Islands while guaranteeing the strictest respect for the way of life of their inhabitants.
>
> "I am convinced that the conditions exist for Argentina and the United Kingdom to begin without further delay a dialogue towards a definitive solution of the sovereignty dispute, thus fulfilling the numerous resolutions adopted by the General Assembly and the Special Political and Decolonization Committee."

56. That position was reaffirmed in a letter dated 13 October 1999 from the Permanent Representative of Argentina (A/54/472) containing a written statement in exercise of the right of reply to the written statement contained in a letter dated 22 September 1999 from the Permanent Representative of the United Kingdom (A/54/420) in exercise of the right of reply to the remarks made by the President of Argentina. The statement read as follows:

> "The Government of the Argentine Republic fully endorsed the ideas put forward by the President of Argentina, Mr. Carlos Saúl Menem during the general debate at the fifty-fourth session of the General Assembly and recalls that the Assembly in its resolutions 2065 (XX) of 16 December 1965, 3160 (XXVIII) of 14 December 1973, 31/49 of 1 December 1976, 37/9 of 4 November 1982, 38/12 of 16 November 1983, 39/6 of 1 November 1984, 40/21 of 27 November 1985, 41/40 of 25 November 1986, 42/19 of 17 November 1987 and 43/25 of 17 November 1988, recognizes the existence of a dispute between the Governments of the Argentine Republic and the United Kingdom of Great Britain and Northern Ireland concerning sovereignty over the Malvinas.
>
> "In those resolutions and in subsequent resolutions of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, the parties are invited to renew negotiations with a view to finding, as soon as possible, a peaceful solution to the dispute over sovereignty relating to the Malvinas, duly bearing in mind the interests of the population of the Malvinas.
>
> "In that context, the Government of Argentina rejects the terms of the letter of the United Kingdom regarding the claim that the "wishes" of the inhabitants of the Malvinas should be respected. The Argentine Republic has repeatedly proven its commitment to protect the "interests" of the islanders. The Argentine Constitution sets out as a national objective the recovery of the Malvinas, South Georgia Island and South Sandwich Islands and the corresponding maritime and island areas, while guaranteeing strict respect for the lifestyle of their inhabitants.
>
> "The Argentine Government trusts that, in response to the numerous invitations by the

international community, and within the auspicious framework of bilateral relations, negotiations will be renewed with a view to reaching without further delay a peaceful and definitive solution to the dispute on sovereignty, in accordance with the wishes of the General Assembly and the Special Committee on Decolonization."

Position of the administering Power

57. In his statement at the 5th plenary meeting of the General Assembly, on 20 September 1999, the Secretary of State for Foreign and Commonwealth Affairs of the United Kingdom made no reference to the question of the Falkland Islands (Malvinas)[3]. However, the United Kingdom exercised the right of reply in a written statement contained in a letter dated 22 September 1999, from the Permanent Representative of the United Kingdom (A/54/420). The written statement in exercise of the right of reply to the remarks of the President of Argentina (see para. 55 above), read as follows:

"The British Government shares the President of Argentina's satisfaction at the strengthening of relations between our two countries in the last year, reflected in his and the Prince of Wales' visits and culminating in July in the signing by British and Argentine delegations of an agreement on practical arrangements on access for Argentine citizens to the Falkland Islands, air links to South America and measures to enhance fisheries cooperation and to combat poaching of fish stocks. These measures represent an important advance in our bilateral relations and a milestone on the path of reconciliation.

"There is, however, nothing in the agreement that compromises the position of the United Kingdom in relation to its sovereignty over the Falkland Islands: we have no doubt about Britain's sovereignty over the Falkland Islands and the other British dependencies in the South Atlantic.

"The wishes of the people of the Falkland Islands must be heeded. The elected representatives of the Islanders expressed their views clearly when they visited the United Nations for this year's debate in the Committee of 24. They asked the Committee to recognize that they, like any other democratic people, were entitled to exercise the right of self-determination. They reiterated that the people of the Falkland Islands did not want to be part of Argentina.

"This year's agreement, however, showed clearly that we in the United Kingdom and Argentina can manage our differences on sovereignty while making practical arrangements on matters of common interest in the South Atlantic. The British Government is confident that our relations will continue to flourish in that spirit of reconciliation, cooperation and mutual interest."

Contribution by other Member States

58. During the general debate on decolonization items in the Special Political and Decolonization Committee (Fourth Committee) on 5 October 1999, the representative of Mexico speaking on behalf of the Rio Group, expressed confidence that the strengthening of bilateral relations between the Governments of Argentina and the United Kingdom and the recent signing by both countries of a joint statement would establish a solid basis for future negotiations which would once and for all lead to a settlement of the dispute concerning sovereignty over the Malvinas Islands, South Georgia and the South Sandwich Islands, in accordance with the resolutions of the General Assembly and the Special Committee on decolonization (see A/C.4/54/SR.4, para. 45).

59. At the same meeting, the representative of Uruguay, speaking on behalf of the States members of MERCOSUR, Bolivia and Chile, said that, with reference to the dispute between Argentina and the United Kingdom concerning sovereignty over Malvinas Islands, South Georgia and the South Sandwich Islands, MERCOSUR had noted with satisfaction the strengthening of bilateral links and the atmosphere of increasing trust in relations between the two countries, thanks to the exchange of high level visits in 1998-1999. The MERCOSUR countries also welcomed the recently adopted joint statements which had allowed the renewal of air and sea communications between mainland Argentina and the Malvinas Islands and permitted free access to the islands by Argentine nationals. They regarded the signing of the statement as an important step towards the strengthening of peace and cooperation in the South Atlantic. The

MERCOSUR countries hoped that development of bilateral relations would provide a stimulus to the holding of future talks with a view to the final settlement of the dispute concerning the Malvinas.

60. Also at the fourth meeting, the representative of Cuba reaffirmed his delegation's strong support for the legitimate right of Argentina in the dispute concerning sovereignty over the Malvinas Islands. A lasting, peaceful and just settlement could be achieved only on the basis of dialogue and cooperation between the parties.

61. At the sixth meeting of the Fourth Committee, on 7 October 1999, the representative of Chile said he associated his delegation with the statement made by the representative of Mexico on behalf of the Rio Group and by Uruguay on behalf of MERCOSUR. He reaffirmed the conviction that there should be a peaceful and negotiated solution to the dispute between Argentina and the United Kingdom, in conformity with the relevant resolutions of the General Assembly and of the Special Committee (see A/C.4/54/SR.6, para. 39).

Action by the General Assembly

62. At its 71st plenary meeting, on 6 December 1999, the General Assembly decided to defer consideration of the item entitled "Question of the Falkland Islands (Malvinas)" and to include it in the provisional agenda of its fifty-fifth session (decision 54/412).

X. Consideration by other intergovernmental organizations and international forums

63. On 8 June 1999, the General Assembly of the Organization of American States (OAS) adopted a declaration on the question of the Malvinas Islands (AG/DEC/21 (XXIX-O/99)) in which it welcomed the reaffirmation of the will of the Argentine Government to continue exploring all possible avenues for peaceful settlement of the controversy and its constructive approach towards the inhabitants of the Malvinas Islands; reaffirmed the need for the Governments of Argentina and the United Kingdom to begin, as soon as possible, negotiations on the sovereignty dispute, in order to find a peaceful solution to this protracted controversy; and decided to continue to examine the question of the Malvinas Islands at its subsequent sessions until a definitive settlement was reached thereon.

64. The position of the United Kingdom with regard to the consideration of the question of the Falkland Islands (Malvinas) at OAS was stated in a letter dated 13 November 1995 from the Permanent Observer Mission of the United Kingdom to OAS addressed to the Chairman of the Permanent Council of OAS:

> "The position of the British Government on the question of the Falkland Islands is well known and remains unchanged. It was, for example, set out most recently by the British delegation in the United Kingdom right of reply to the statement to the United Nations General Assembly by the Argentine Minister for Foreign Affairs on 27 September. I am sure you will understand why the United Kingdom cannot accept the various resolutions and declarations adopted by the General Assembly of the Organization and referred to in the preamble and operative paragraph 1 of resolution 655 (104/95). I am sure that this matter will not inhibit the fruitful cooperation on a wide range of issues which we all desire."

65. At the ninth Ibero-American Summit held at Havana, the Heads of State or Government adopted the following declaration on 16 November 1999:

> "The heads of State and Government of the Latin American countries, meeting in the city of Havana, Cuba, bearing in mind the progress achieved in Argentine-United Kingdom relations since our Margarita Declaration, once again affirm the need for the Governments of the Argentine Republic and the United Kingdom of Great Britain and Northern Ireland to resume, as soon as possible, negotiations aimed at finding an early solution to the sovereignty dispute in relation to the question of the Malvinas Islands, in accordance with the resolutions of the United Nations and the Organization of American States and the provisions and objectives of the Charter of the United Nations, including the principle of territorial integrity".

Notes

[1] The information contained in the present paper has been derived from information transmitted to the Secretary-

General by the Government of the United Kingdom of Great Britain and Northern Ireland under Article 73 *e* of the Charter of the United Nations on 5 May and 6 June 2000, as well as from official documents of the Government of Argentina.

[2] See *Official Records of the General Assembly, Fifty-fourth Session, Plenary Meetings*, 7th meeting (A/54/PV.7).

[3] See Ibid., 5th meeting (A/54/PV.5).